

104
FEDERAL REGULATORY REFORM

Y 4. G 74/7:R 25/2

Federal Regulatory Reform, 104-1 He...

HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL ECONOMIC GROWTH,
NATURAL RESOURCES, AND REGULATORY AFFAIRS
OF THE

COMMITTEE ON GOVERNMENT
REFORM AND OVERSIGHT
HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

JULY 17, 1995

Printed for the use of the Committee on Government Reform and Oversight

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FEDERAL REGULATORY REFORM

MONDAY, JULY 17, 1995

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON NATIONAL ECONOMIC GROWTH,
NATURAL RESOURCES, AND REGULATORY AFFAIRS,
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT,
Tampa, FL.

The subcommittee met, pursuant to notice, at 10:04 a.m., in the Banquet Hall, Tampa Bay Performing Arts Center, Tampa, FL, Hon. David McIntosh (chairman of the subcommittee) presiding.

Present: Representatives McIntosh, Scarborough, and Thurman.

Staff present: Karen Barnes, professional staff and David White, clerk.

Mr. MCINTOSH. The Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs is called to order.

As chairman of this House subcommittee, I would like to welcome you to the subcommittee's sixth field hearing. We have already traveled to Fairfax, VA; Portland, ME; Norristown, PA; and two locations in Indiana, my hometown of Muncie and Indianapolis.

It is a pleasure to be here today. I would like to also thank two of my colleagues who have joined me; Congressman Joe Scarborough, who is a fellow freshman on the subcommittee and a Floridian who represents the Pensacola area. He tells me that it is now referred to as L.A., lower Alabama, but that he is definitely a Floridian. And Congresswoman Karen Thurman, a fellow member of the Government Reform and Oversight Committee, the full committee in which we serve, and a Floridian who represents the Fifth District here in the State.

The mission of our subcommittee is to cut back on unnecessary, burdensome and sometimes just plain stupid regulations. Red tape and excessive regulations are choking America's competitiveness, costing workers their jobs, forcing families to pay more for everything from the food we eat to the cars we buy, causing farmers to lose their property and forcing local taxpayers to foot the bill.

Congress is committed to putting a hold on new regulations and cutting back on the existing red tape. We will force the bureaucracy in Washington, DC, to consider the loss of jobs and competitiveness, use good science and protect private property rights.

In last November's elections, Floridians and Americans everywhere made it clear that they want to change the way business is done in Washington. So far in the 104th Congress, many of my colleagues and I have made this message our mission. Today, we hold

this hearing to give the people of Florida another opportunity to voice their views and concerns on regulatory reform.

I think we have turned it upside down and said we do not need to have people come to Washington to express their views, we are going to come to the people and hear what you have to say, and take those ideas back with us to Washington and our colleagues in Congress.

Particularly, your suggestions today will be helpful to identify regulations which can be addressed through Corrections Day. Corrections Day is a new procedure that Speaker Gingrich has put into place in which the House of Representatives is convened twice a month to repeal onerous and silly regulations. As he puts it, we are going to send a message to the agencies to get rid of these rules that nobody thinks are appropriate and are in fact very harmful to communities around the country.

He has appointed me and two other members to set up an advisory group. We have now expanded that, it is a bipartisan effort so that it does not become a matter for partisan politics, but we can find these regulations that everyone agrees do not make sense and need to be gotten rid of. Your suggestions for Corrections Day will be taken back to that committee and shared with our members so that we can see those move forward in Congress.

There is also significant regulatory reform that is needed to stop the growth of big Government regulators that have really expanded the scope of the Federal Government since the depression. Currently, there are over 110 agencies with 130,000 employees who issue, enforce, and write regulations every day. In 1994, the Federal Register was a little less than 65,000 pages long, the longest it has been since the Carter administration in the 1970's. It has increased every year during the current administration from 57,000 pages in 1992 to 65,000 pages now.

Furthermore, the cost of regulations has skyrocketed over the years. President Clinton's administration has the National Performance Review, headed by Vice President Al Gore. They have concluded that the cost of compliance with regulations is at least \$430 billion per year, 9 percent of the gross domestic product. Other economists have estimated that the Federal regulatory burden on the private sector is between \$500 billion and \$800 billion per year. That is about \$6,000 for each family in Florida.

The burden of regulation represents a hidden tax on the American middle class. Companies are forced to comply with regulations and turn around and raise their prices, passing along the cost to the consumer. In fact, 10 percent of a bag of groceries can be attributed to the cost of regulations. Moreover, regulations cost jobs and economic growth. Time and time again, I hear from businessmen and women who struggle under today's regulatory burdens. Working men and women lose their jobs because they are unable to—these businessmen are unable to create new and better jobs. For all of these reasons and many more which we will hear about today, we need to cut back on this Federal red tape and return to common sense in the regulatory process.

Thank you for coming and participating in this hearing. Your views are going to become part of the official record in Congress.

Before we begin to hear from our first panel, I want to apologize that we do not have more time to hear from each of you. Because of the fact that we now have to get back to Washington at 5:00 to cast votes, we will be hearing from several scheduled witnesses and then turn open the record for what I refer to as the open mic period, where anybody in the audience is welcome to come forward and present your testimony. We have a timekeeper, one of the staff from Washington. David is here, he will have the timekeeper and alert us when 5 minutes has elapsed, or 3 minutes on the open time. What I would ask you to do is summarize any written testimony. We can take the full testimony in writing and include that in the record as well, so that your remarks will be fully part of the Congressional Record. By keeping the testimony short, that will let us hear from more people today. And I appreciate your understanding that we sometimes have to move along in that way.

So before we hear from our first panel, let me turn to my colleagues and see if you have any opening remarks.

Mrs. Thurman, do you have anything you would like to say?

Mrs. THURMAN. Just let me welcome everybody here. My district is probably not more than 10 miles up the road, and we are very pleased to have all of you representing your different industries and issues that you are going to bring before us. And thank you for your time, we look forward to hearing from you today.

Mr. MCINTOSH. Mr. Scarborough.

Mr. SCARBOROUGH. I would just again say it is great to be back in central Florida again. I went to University of Florida law school and I am sure I have alienated half the crowd now. [Laughter.]

But when I came down here, I have got to tell you, in northwest Florida, we do not think that we are appreciated enough and so at one point we were even talking about seceding and going to Alabama. What a shock it was when I came down to central Florida and found out that everybody down here thought Pensacola already was in Alabama. [Laughter.]

But this is a great area and I am very pleased that Chairman McIntosh has decided to hold hearings down here, because I think we are going to hear from some people who are experts, more experts down here who have had to deal with the regulations than the so-called experts up in Washington that have given us 65,000 pages of regulations and imposed regulations on Americans that have cost upward to \$800 billion every year; and more importantly, pushing regulations on Americans that have done more than cost time and money, it has also cost freedom, their very freedom.

We are going to hear testimony from one of our witnesses today, who was actually imprisoned because of overburdensome regulations, and I have similar stories from up in my district—a man named Ocey Mills, who was imprisoned because he put some sand on his son's property. I will tell you what, when we get to a point in this country where men and women are being thrown into jail because they do not abide by these regulations that change every week, regulations that are not passed by duly elected officials, but regulations that are put into effect by bureaucrats, then we have gone a long way from what our founding fathers intended us to do in this country. And that is why I look forward especially to your testimony this morning.

And again, I thank Chairman McIntosh for holding this committee meeting and I also thank Congresswoman Thurman for allowing us to have a committee meeting in her backyard.

Mr. MCINTOSH. Thank you, I appreciate it.

Our first panel today are three representatives of the agricultural community; Mr. Juan Adriatico, Mr. Roy Davis, and Mr. Tommy Brock—

Mr. BROCK. Brock, B-r-o-c-k.

Mr. MCINTOSH. Brock, OK, I have got a misspelling here. Thank you.

Mr. Clinger, who is the chairman of the full committee, has asked that we have a policy in our committee of swearing in all of our witnesses. So I would ask each of you to please rise.

[Witnesses sworn.]

Mr. MCINTOSH. Thank you very much. Let the record show that each of the witnesses answered in the affirmative.

So without further ado, Mr. Adriatico, thank you for coming today and I appreciate you participating.

STATEMENTS OF JUAN ADRIATICO, FARMER AND BUSINESSMAN; ROY DAVIS, NURSERYMAN, PRESIDENT OF HILLSBOROUGH COUNTY FARM BUREAU, PRESIDENT OF TAMPA BAY CHAPTER OF FLORIDA NURSERYMEN AND GROWERS ASSOCIATION; AND TOMMY BROCK, PRESIDENT OF HILLSBOROUGH COUNTY STRAWBERRY GROWERS ASSOCIATION

Mr. ADRIATICO. Thank you, Chairman McIntosh, and I appreciate the opportunity, Mr. Scarborough and Mrs. Thurman.

I have a story to tell. I am a first generation Filipino-American. I was born in Orlando and my parents are long time citrus growers in an area known as Goldenrod. My father is 97 years of age and still tends his grove.

I have just completed serving a 9-month jail sentence. My crime was littering the environment. I am 46 years of age, a family man, a 1972 Public Administration Political Science graduate of the University of Central Florida. I am a farmer/businessman and an active member of an Evangelical Christian Church.

I have never been convicted of a crime until September 27, 1991. My trouble with the authorities started 5 years prior to that, December 3, 1985, when my abutting neighbors started filling their low-lying property. I repeatedly reported the dumping of their questionable material to various Seminole County authorities, for my family and I drink from a well. Tons of oil-soaked dirt had been placed on their land. My neighbors had also blocked the drainage, disrupting the flow of all usual drainage of water, causing my land to flood.

After many complaints to the authorities, I was advised by an official that I could also fill my low area of property, so-called wetland, to alleviate the flooding that had developed from my neighbors' filling of their land. It was my objective to solve the flooding problem aggravated by my neighbors' filling and to develop a Christmas tree farm. My neighbors' land is flood-prone, where ours is not. It is the same low area, however.

This is when our problems started. I purchased heavy equipment, hired men, began to fill my property. I rejected many questionable loads, making sure there were no tires, asbestos, oil, drugs, organic or inorganic contaminated material, for as mentioned earlier, my family and I live on this farm. The filling project was to involve approximately 2 acres, and certainly less than the 5 acres my neighbors had filled.

After filling 1½ acres, the authorities of Seminole County had a sudden change of heart. After I was convicted, it was brought to my attention that the authorities' position regarding regulations and rules had changed. They imposed heavy fines on my deeded land and started foreclosure proceedings and notified the State's Department of Environmental Regulation, DER at the time, now it is called DEP, Department of Environmental Protection, of my activities.

I was tried and convicted of putting poisonous, deleterious material into waters of the State, without the first groundwater test ever being done, or the completion of a jurisdictional determination. Jurisdictional determinations are done by DER's hydrologist and botanist, to determine if a wetland is private property or State owned.

In February, 1993, after the trial, I had expensive and extensive tests done on the groundwater of our land. The lab folks tell me our groundwater is safer than many people's drinking water. I would be more than happy to show these tests to you.

Judge Davis conceded that he did not know what to do with me after the conviction, for my case was precedent-setting. He stated, "I should give you 4 months in jail and move on to my next case." This happened without any explanation as to the degree of penalty. He did agree to allow me to negotiate with the State bureaucrats, DEP, to see if I could come up with a plan to resolve the matter. DEP's plan to resolve the matter involved excavating the fill of approximately 2 acres of land, have it transported 100 yards to my front yard, where an excavated hole would be waiting, and bury it. The plan of DEP was ridiculous to me if the fill was truly contaminated. The price tag for this project is \$1.2 million. I am a working man and paid taxes on less than \$10,000 in 1991.

It seems like the State and county authorities have also chosen to selectively target me in their wetland pursuits, yet my neighbors, who filled the same low area, have not been cited. Why?

Judge Davis was mysteriously replaced by Judge Eaton during my negotiations with DER/DEP. When I explained to Judge Eaton that I am a good steward of God's land, but I could not afford to remove the fill, and that none of the banks that I had contacted would lend me the money anyway, he sentenced me to 9 months in jail, which I faithfully served, away from my wife and children. This truly disrupted the fabric of my family relationship, which I am now deeply suffering. My family is broken, I am on the verge of a divorce, I have incurred many legal expenses with my wife that have developed because of unjustified rules of Government. I have had to go through many struggles regarding my children's custody, just so I could be close to them and visit them. The only thing I truly value, other than my relationship with God, is my relationship and direction I can provide for my children.

I lost my license as a mobile home dealer because of being convicted as a felon. Now, instead of being a productive citizen that I have always been, I am now unemployed. My wife had the State remove me from my home on alleged domestic violence charges. I tried to make use of my time by mowing grass for my friends to supplement our meager income on account of all this. I have been forced to sell some of the property and others are in the process of being liquidated, so that my wife can acquire her marital share prior to the divorce.

Now I have to start my life all over again. But I do hope that the one and only God will be faithful, as he has been faithful in guiding this country.

Judge Eaton further encouraged the DEP to file civil action against my family and me. This would allow the DEP to come after our land, farm, home and all assets. The DEP has served me with papers and it looks like the authorities will own everything I have slaved to accumulate and improve for the benefit of my family and myself.

Ladies and gentlemen, from birth, I have been taught to love God, work hard and love my fellow man. Over the years, I have been blessed for my hard work. What kind of promise do my children have? Is this truly the land of the free, the land of opportunity? Whatever happened to the American dream?

Thank you very much for your invitation. I never dreamed that I would have the opportunity to present my case to distinguished servants of our Government. I have lost faith in our Government, but now I see a dawning of a new republic, triggered by the dramatic change in the Constitution of our Congress after 40 years. I pray that the outcome of this inquiry will bring about positive change in our Government for the purpose of abolishing unnecessary rules and regulations that place innocent citizens of the United States of America in bondage.

God bless the U.S.A. Thank you.

[The prepared statement of Mr. Adriatico follows:]

PREPARED STATEMENT OF JUAN ADRIATICO, FARMER AND BUSINESSMAN

The purpose of this letter is to illustrate my plight, for I am in desperate need of help.

I am a first generation Filipino-American. I was born in Orlando, and my parents are long-time citrus growers to an area known as Goldenrod. I have just completed serving a nine (9) month jail sentence. My crime was to the environment—littering.

I am 43 years of age, a family man, college graduate, farmer/businessman, and an active member of a spirit-filled church. I have never been convicted of a crime.

My trouble with the authorities started several years ago, when my abutting neighbors started filling our joint swamp (Wetland). I repeatedly reported the dumping of questionable material to various Seminole County authorities, for my family and I drink from a well. Tons of oil-soaked dirt had been placed on their land. My neighbors had also blocked the drainage, disrupting the flow of all water, causing my land to flood.

After many complaints to the authorities, I was advised by an official that I could fill my swamp (Wetland), to alleviate the water problem on our land and create a Christmas Tree Farm. My neighbors' land is flood-prone, where mine is not!! It is the same Wetland, however.

This is when our problems started. I purchased heavy equipment, hired men, and began to fill my swamp (carefully inspecting each load for possible contaminants). I rejected many loads—for, as mentioned earlier, my family and I live on this farm. The filling project was to involve approximately two acres and certainly less than the five acres my neighbors had filled.

After filling 1½ acres, the authorities of Seminole County had a sudden change of heart. They imposed heavy fines on my deeded land, started foreclosure proceedings, and notified the State's Department of Environmental Regulations (DER), of my activities.

I was tried and convicted of putting poisonous material into waters of the state, without the first groundwater test ever being done, or the completion of a jurisdictional determination. Jurisdictional determinations are done by DER's hydrologist and biologist (botanist), to determine if a Wetland is private property, or state owned.

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DER's plan to resolve the matter involved removal of approximately two acres of land, have it transported 100 yards, to my front yard, where an excavated hole would be waiting—and bury it. The price tag for this project is \$1,200,000!!! I am a working man and paid taxes on less than \$10,000 in 1991!

Judge Davis was mysteriously replaced by Judge Eaton during my negotiations with DER. When I explained to Judge Eaton that, "I am a good steward of God's land (inspecting the fill), that I couldn't afford to remove the fill, and that none of the dozen bankers I had contacted would lend me money, based on my income," he sentenced me to nine (9) months in jail. He further encouraged the DER to file civil action against my family and me. This would allow the DER to come after our land, farm, home, and all assets!!

The DER has served me papers and it looks like the state (authorities) will own everything I have slaved to accumulate and improve, for the glory of God and the benefit of our babies. From birth, I was taught to love God, work hard, and love my fellow man. Over the years, God has blessed my family. What kind of promise do my children have? Is this truly the land of opportunity??

In February, after the trial, I had expensive and extensive tests done of the groundwater on our land. The lab folks tell me our groundwater is safer than many people's drinking water. I would be more than happy to show these tests to you.

Also, the State and County authorities have chosen to selectively target me in their Wetland pursuits, yet my neighbors (who filled the same Wetland), have not been cited. WHY!!!!

Mr. McINTOSH. Thank you very much, Mr. Adriatico. Let me hear from each of the panelists, and then we will get a chance to talk with you more about your experience.

Our second witness would be Mr. Roy Davis, who is a nurseryman and president of Hillsborough County Farm Bureau and president of the Tampa Bay Chapter of the Florida Nurserymen and Growers Association.

Mr. Davis, thank you.

Mr. DAVIS. Thank you for this opportunity.

My name is Roy Davis. I am president of Hillsborough County Farm Bureau. I am also president of the Tampa Bay Chapter of the Florida Nurserymen and Growers Association. My field of agriculture is growing woody ornamental landscape trees and shrubs for use in landscaping residential, commercial, and governmental structures; and for retail sale. My nurseries cover about 110 acres in Hillsborough County. We write paychecks to more than 60 employees every week of the year.

When people outside Florida think about agriculture in Florida, they think citrus. Most do not realize that Florida is the largest production State in ornamental plants and trees, and in foliage plants, interiorscape and interior foliage plants. Florida is far and away the largest producer of tropical fish; the largest in winter strawberry production and many other winter vegetables including tomatoes, at the moment. We are among the top three States in beef cattle production. I could go on and on with such statistics, but the point I wish to make is that all these crops in which Florida

excels are minor crops. Each of these crops which combine to make Florida the 4th largest agricultural producing State in our union, is considered by the Federal Government to be a minor crop. Yet all of our Government's regulatory programs are written with major field crops in mind, such as they have in Indiana.

A prime example of these out of control regulatory programs is the pesticide reregistration requirement. This rule requires all pesticides which were registered for use before a certain named year, which I do not know, be requalified and reregistered for each crop use by the year 2000, or approximately that year. Today, I pay \$154 for 1 gallon of Subdue, which is a root zone fungicide which was first registered in recent years. We use 40 to 50 gallons of this material each year. In 1960 I paid \$8 for 1 gallon of 72 percent strength chlordane, or about \$10 for 1 gallon of 50 percent malathion. Now, Subdue does not cost any more to actually manufacture than did these products. The difference in this cost is due in part to normal inflationary pressures, to be sure. However, most of this cost increase is due to the cost of registering pesticides for specific crop uses. Now it has been mandated that everything has to be reregistered. EPA's rules which require reregistration for all older pesticides, fungicides and herbicides will simply remove them from the marketplace. Pesticides which are used primarily on minor crops cannot be produced economically, if you add this ungodly cost of reregistration under today's rules.

Hillsborough County Farm Bureau and Florida Farm Bureau are members of Minor Crop Farmers Alliance. We have worked for 2 years preparing a bill which will allow manufacturers to continue to produce older, safe, insecticides, fungicides, and herbicides, by simplifying and lowering the cost of reregistration. We need your help to get this package through Congress. I did not bring the bill number with me, but I will send you a letter with that bill number on it.

The Farm bill is my next concern. In my editorial for our Hillsborough County Farm and Ranch News, the April edition, I wrote some thoughts about the Farm bill which this Congress will soon consider. I hope you will all read this editorial and use my thoughts to help you decide to support, continuing to help the Nation to reclaim agricultural production. Continuing the peanut program is critical to the survival of many small farmers throughout the Southeast, and much of America. Also, I read in last Wednesday's Tampa Tribune that our winter crop weather forecasts are in immediate jeopardy. We ask Congress to allow the agricultural industry 2 or 3 years in which to develop technology to overcome this loss of service. We do not mind losing it, we can deal with it, but we cannot deal with it this year. It is felt that we can deal with this loss of service, but we need a little time to get it done.

EPA has rules which cause mandatory phaseout of certain materials within a certain period of time. Methyl bromide is a gaseous soil fungicide which is critical to the continuation of Florida's production of many winter vegetables including strawberries and tomatoes. Environmental extremists have been able to establish a rather superficial case to indicate that methyl bromide has an ODP rating of .7. The use of any product which has ODP rating of .2 or more must be discontinued by the year 2002.

My goodness, I am only halfway through.

Mr. MCINTOSH. Go ahead and summarize the rest and we can put the full written testimony into the record.

Mr. DAVIS. OK.

This case is made here, this is a superficial case on methyl bromide, yet it is going to put our strawberry farmers out of business completely. The tomato farmers probably will not be around long enough because of other factors, to even matter to them. But if they should happen to survive until 2002, they will be out of business.

The new rules for "worker protection standards" is another factor that is adding cost to agriculture production. And one note that I made while you were talking awhile ago, Congressman McIntosh, the difference between the business community and the agricultural businessman is that the farmer cannot add the cost of governmental regulations to his selling price. Ours are fresh goods, they must be sold the day they are harvested, in general, and we cannot add it. So all we can do is eat it and we have eaten it about as long as we can.

One or two other points as I go through. The Division of Wage and Hour made a raid on migrant farm housing in Hillsborough County. They raided 27 farms, they wrote citations at 25 of them. What a record—what a record—92.5 percent they found to be in violation to the amount of \$57,000. We met with Ms. Maria Echavesta in Washington, DC. We had a very difficult time getting the meeting set up, we finally got it accomplished. Then she came down here, she visited Tommy Brock's farm, she visited some other places, and she had a meeting with us. It was all lip service. They do not intend to do anything about it. If Congress does not develop a bill to put a stop to these people, they can come in and raid our farms any time they want to, haul the farmer's money back to Washington, DC, so that they can have money enough to go raid some more farms. The lady's name is Maria Echavesta, the gentleman's name who is the head of the local division is John Traczewski. They are just not doing anything. They are trying to salve our feelings a little, but their intent is not to do anything.

Now if I may read my last statement. We, the farmers, have no way of knowing whether your committee comes to Hillsborough County, FL looking for real information with which to make real changes; or if it comes to fill us with empty hope by smoke and mirrors. We hope you are sincere. We hope you are capable of causing change. We want to believe that someone will do the things which will cause us to believe.

We hope that you people on this committee are the white knights who will rescue agriculture.

Thank you for this opportunity.

[The prepared statement of Mr. Davis follows:]

PREPARED STATEMENT OF ROY DAVIS, NURSERYMAN, PRESIDENT OF HILLSBOROUGH COUNTY FARM BUREAU, PRESIDENT OF TAMPA BAY CHAPTER OF FLORIDA NURSERYMEN AND GROWERS ASSOCIATION

My name is Roy Davis. I am President of Hillsborough County Farm Bureau. I am also President of the Tampa Bay Chapter of the Florida Nurserymen and Growers Asso. My field of agriculture is growing woody ornamental landscape trees and shrubs for use in landscaping residential; commercial, and governmental structures;

and for retail sale. My nurseries cover about 110 acres in Hillsborough County. We write paychecks to more than 60 employees every week of the year.

When people outside Florida think about agriculture in Florida, they think Citrus. Most do not realize that Florida is the largest production state in ornamental plants and trees, and in foliage plants, interiorscape and interior foliage plants. Florida is far and away the largest producer of Tropical Fish; the largest in winter strawberry production and many other winter vegetables including tomatoes, at the moment. We are among the top three states in beef cattle production. I could go on and on with such statistics, but the point I wish to make is that all these crops in which Florida excels are minor crops.

Each of these crops which combine to make Florida the 4th largest agricultural producing state in our union, is considered by the Federal Government to be a minor crop. Yet all of our governments regulatory programs are written with major field crops in mind. A prime example of these out of control regulatory programs is the pesticide re-registration requirement. This rule requires all pesticides which were registered for use before a certain named year, be re-qualified and re-registered for each crop use by the year 2000, or approximately that year. Today I pay \$154.00 for one gallon of Subdue, which is a root zone fungicide which was first registered in recent years. We use 40 to 50 gallons of this material each year. In 1960 I paid \$8.00 for 1 gallon of 72% strength chlordane, or about \$10.00 for 1 gallon of 50% malathion. This difference in cost is due in part to normal inflationary pressures, to be sure. However, most of this cost increase is due to the cost of registering pesticides for specific crop uses. EPA's rules which require re-registration for all older pesticides, fungicides and herbicides will simply remove them from the marketplace. Pesticides which are used primarily on minor crops cannot be produced economically, if you add this ungodly cost of re-registration under today's rules. Hillsborough County Farm Bureau and Florida Farm Bureau are members of Minor Crop Farmers Alliance. We have worked for two years preparing a bill which will allow manufacturers to continue to produce older (safe) insecticides, fungicides, and herbicides, by simplifying and lowering the cost of re-registration. We need your help to get this package through congress.

The Farm Bill is my next concern. In my editorial for our Hillsborough County Farm and Ranch News, the April edition, I wrote some thoughts about the Farm Bill which this congress will soon consider. I hope you will all read this editorial and use my thoughts to help you decide to support, continuing to help the nation to reclaim agricultural production. Continuing the peanut program is critical to the survival of many small farmers throughout the Southeast, and much of America. Also, I read in last Wednesday's Tampa Tribune that our winter crop weather forecasts are in immediate jeopardy. We ask congress to allow the agricultural industry two or three years in which to develop technology to overcome this loss of service. It is felt we can deal with this loss of service, but we need a little time to get it done.

EPA has rules which cause mandatory phase-out of certain materials within a certain time frame. Methyl Bromide is a gaseous soil fungicide which is critical to the continuation of Florida's production of many winter vegetables including strawberries and tomatoes. Environmental extremists have been able to establish a rather superficial case to indicate that methyl bromide has an ODP rating of .7. The use of any product which has ODP rating of .2 or more must be discontinued by 2002. EPA's evidence is flawed even to establish this high rating for Methyl Bromide. In addition to this, the most scientific data indicates that:

1. Man's release of Methyl Bromide into the atmosphere has no effect on the Ozone depletion which happens at the poles during certain seasons of the year.

2. More than 95% of the Methyl Bromide which is released into the atmosphere, is put there by nature, not by man. Even if Methyl Bromide were the "bad news product" which the nay-sayers imply, our impact is negligible.

Yet we will sacrifice a large part of Florida's agriculture unless this committee can help.

The new rules for "worker protection standards" are very restrictive. They are written in such a way as to significantly increase agriculture's production costs. Many employee meetings which must be conducted on company paid time are mandated by this law. These conferences, or meetings will significantly increase our cost of production, and our workers will receive little or no benefit. These rules require us to keep our workers out of the field for time periods such as 12 hours, 24 hours, 48 and 72 hours. In agricultural operations such as nursery and tropical fish we ship product everyday. There is no way we can pull orders for shipment on a schedule or regular basis, and still comply with the law. We'll simply have to cheat until we get caught, and then go out of business.

The problems which I have described all create expensive problems for agriculture producers. None of these problems are as disruptive to the farmers own personal mental state as are the problems created by the Division of Wage and Hour, of the U.S. Department of Labor, which is headed up in Washington, D.C. by Maria Echavesta. I'm enclosing my Farm and Ranch News editorial for March 1995, which actually describes the gestapo-like tactics which our own government uses to raid our farms, and pillage our finances. These raids to our farmers migrant farm worker housing areas are purely punitive. Ms. Echavesta readily admits that it is the stated policy and intent of her division that these raids be conducted in a punitive and intimidating manner. Hillsborough County Farm Bureau (with great difficulty) was able to arrange a meeting with Ms. Echavesta in Washington, D.C. We then were able to get her to visit us here in Hillsborough County. She even toured Tommy Brock's farm and visited his farmworker housing. During these exchanges, she and Mr. Trazewski (district office head) said, "They'd get back to us on these complaints." So far we've heard not a word. They made it quite plain that they would give our complaint lip-service, but they really didn't intend to change their tactics.

I believe Tommy Brock, and Jo Alice McDonald, both of whom were cited during these raids, are here today and can tell you the specific outrages which Ms. Echavesta visited upon them. In all, Ms. Echavesta's troops raided 27 farms in Hillsborough County, and wrote citations on 25 of them. What a record, 92.5% efficiency. Any vice squad chief would be proud of such a record. But the vice squad must have hard evidence. Most of those whom the vice squad accuses will have attorneys appointed by the courts. Our farmers are not given these protections. Of the 25 farms cited, \$57,000 worth of fines were levied. All citations were written on insignificant items, such as torn screens or loose screws. Not one item written up was for a serious infraction.

Many of the farmers cited were intended by Congress to be exempted from this law for one reason or another. When Wage and Hour Division wrote the rules, which implemented Congress' law, they decided they didn't want any exemptions. Through rule making, they changed Congress' intent. They eliminated most exemptions. Still a couple of our farmers qualified to be exempted. Wage and Hour Division simply ignored the law and their rules and cited farmers anyhow.

Confidence!! Yes, President Clinton has asked our patriots and our farmers to have confidence in our federal government. Don't say bad things about our federal bureaucracy, our President asks. Well now, ladies and gentlemen, let me ask you, "If you had to farm for a living; do or die farming is what I mean; the kind where if you don't sell crops at a profit on a regular basis . . . your family doesn't eat and you lose your land . . . would these kinds of governmental interferences into your ability to put food on the family table give you confidence in the federal government?"

We, the farmers, have no way of knowing whether your committee comes to Hillsborough County, Florida looking for real information with which to make real changes; or if it comes to fill us with empty hope by smoke and mirrors. He hope you are sincere. We hope you are capable of causing change. We want to believe that someone will do the things which will cause us to believe.

We hope that you people on this committee are the White Knights who will rescue agriculture.

Mr. MCINTOSH. Thank you, Mr. Davis, I appreciate your comments.

Our final witness on this panel, Mr. Brock, if you will proceed. Your business is in the strawberry area?

Mr. BROCK. I am Tommy Brock, I am a farmer, third generation in Florida. Also, president of Florida Strawberry Growers Association.

Every year, no less than seven regulatory agencies visit mine and many other growers' farms, and at least three or four of them are doing the same thing—State, county and Federal—checking labor camps.

I will get into my written statement now.

On January 11, 1995, the U.S. Department of Labor made an inspection without my knowledge and left a copy of alleged violations with my brother, Jim Brock.

Upon my return, I had a phone conversation with Nicolas Ratmiroff, with the Labor Department, on January 17. I stated to Mr. Ratmiroff that I was in the process of correcting the alleged violations because the inspector for HRS was here 2 days prior to the Labor Department inspection, I would have them completed by Thursday, January 19, for his inspection. By the way, we have a total of three agencies inspecting housing, and I feel this is a waste of taxpayers' money.

Mr. Ratmiroff never asked me if I provided written copies to each worker showing terms and conditions of occupancy for housing, which I do have. He never showed up to inspect. If this is so important, why did he not come back? They fined us, but he did not ever come back to see what the real job was that was being corrected, they never came back.

If Mr. Ratmiroff would have kept his appointment on Thursday, I would have cleared up more than half their alleged violations. The remainder of the alleged violations were very minor. When I say minor, I am talking about like a torn screen, I am talking about like a screen missing out of a window, a cracked window, a soft floor, a loose step, an extension cord running out the window to plug into a washing machine. Those are the major health violations that they charged me \$2,500 for.

As president of Florida Strawberry Growers Association, I receive calls from other growers concerning the way the Department of Labor handled their inspections. The tactics employed have been described as a group of storm troopers descending upon an area. The investigators went directly to the field without notifying the farmers to conduct an investigation and when confronted, stated that MSPA, the migrant labor law, gave them the power to enter any field to conduct an investigation with or without our permission.

I was concerned about what happened, so I contacted my Congressman, Farm Bureau and FFVA. Congressman Mike Bilirakis sent letters to John Traczewski, District Director, Wage and Hour, about my concerns. On March 24, 1995, Representative Charles Canady set up a meeting with Maria Echavesta, Administrator of Wage and Hour Division, Mike Bilirakis, and Peter Hockstra to discuss this problem.

After my first visit with Maria Echavesta in Washington, I was optimistic that she understood our problems with her agency and would act to correct it. After a second meeting with her at my farm on Thursday, June 9, I was convinced that she was both unwilling to compromise and on a mission of retaliation. After she left my farm, she went to her district office in Tampa and met with John Traczewski and his staff, and I think with intent on teaching me a lesson for being so openly against their policies.

Immediately following that meeting, my farm was scrutinized more closely by Code Enforcement for potential violations. Mr. Ratmiroff—this is the same field guy that did not have time, according to her statements in two meetings, did not have time to come back and make second trips to our farms to check to see if we had corrected the violations—but on Monday after the Thursday, Mr. Ratmiroff was sent to the Hillsborough County Record Office to get a list of my properties. On June 13, 1995, Mr. Ratmiroff

requested that Hillsborough County Code Enforcement Office inspect my properties again. This was in spite of the fact that I had already contacted Code Enforcement to make sure that all my properties were in accordance with them. And the alleged violation was simply I had 2 meters on a piece of property that was legally put there in 1970, because Hillsborough County has got a new code saying that every meter has to have its own folio number. That was the problem. Nothing to do with housing whatsoever.

So I feel that I have been singled out for harassment because I expressed my objections to Wage and Hour procedures. I feel that every person should have the right to express his or her grievances to a Government office without fear of retaliation. I object to how Wage and Hour has responded to my honest criticisms. I am a citizen of this free Nation and a taxpayer and provide the financial support for Wage and Hour activities.

I thank you for your time and I appreciate you all being here.
[The prepared statement of Mr. Brock follows:]

PREPARED STATEMENT OF TOMMY BROCK, PRESIDENT OF HILLSBOROUGH COUNTY
STRAWBERRY GROWERS ASSOCIATION

On January 11, 1995, the U.S. Dept. of Labor made an inspection without my knowledge and left a copy of alleged violations with my brother, Jim Brock.

Upon my return, I had a phone conversation with Nicolas Ratmiroff, with the Labor Department on January 17th. I stated to Mr. Ratmiroff that I was in the process of correcting the alleged violations because the inspector for HRS was here two days prior to the Labor Department's inspection, and I would have them completed by Thursday, January 19th, for his inspection. By the way, we have a total of three agencies inspecting housing, and I feel this is a waste of taxpayers' money.

Mr. Ratmiroff never asked me if I provided a written copy to each worker showing the terms and conditions of occupancy for housing. He never showed up to inspect. If Mr. Ratmiroff would have kept his appointment on Thursday, I would have cleared up more than half of the alleged violations. The remainder of the alleged violations were very minor.

As President of the Florida Strawberry Growers Association, I received calls from other growers concerning the way the Department of Labor handled their inspection. The tactics employed have been described as like a group of "storm troopers" descending upon an area. The investigators went directly to the field, without notifying the farmers, to conduct an investigation and when confronted, stated that M.S.P.A. gave them the power to enter any field to conduct an investigation with or without permission.

I was concerned about what happened, so I contacted my Congressmen, Farm Bureau, and F.F.V.A. Congressman Mike Bilirakis sent a letter to John Traczewski, District Director of Wage and Hour, about my concerns. On March 24, 1995, Representative Charles Canady set up a meeting with Maria Echaveste, Administrator of the Wage and Hour Division, Mike Bilirakis, and Peter Hoekstra to discuss this problem.

After my first visit with Maria Echaveste in Washington, I was optimistic that she understood our problems with her agency and would act to correct it. After a second meeting with her at my farm on Thursday, June 9th, I was convinced that she was both unwilling to compromise and on a mission of retribution. After she left my farm, she went to her district office in Tampa and met with John Traczewski and his staff, intent on teaching me a lesson.

Immediately following that meeting, my farm was scrutinized more closely by Code Enforcement for potential violations. Mr. Ratmiroff was sent to the Hillsborough County Record Office to get a list of my properties. On June 13, 1995, Mr. Ratmiroff requested that the Hillsborough County Code Enforcement Office inspect my property again. This was in spite of the fact that I had already contacted Code Enforcement to make sure that all of my properties would be in compliance.

I feel I have been singled out for harassment because I expressed my objections to Wage and Hour procedures. I feel that every person should have the right to express his or her grievances to a governmental office without fear of retaliation. I object to how Wage and Hour has responded to my honest criticism. I am a citizen

of this free nation and a taxpayer that provides the financial support for Wage and Hour activities.

Mr. MCINTOSH. Thank you very much, Mr. Brock.

What we are seeing here is a pattern, I think, of arrogant Government officials who are not willing to work to address real problems. We all share a goal of protecting the environment, of making sure that we have a healthy and safe work site, but what we do not need is a Government that runs roughshod over individuals and their rights. It is much better if we can work together to solve legitimate problems, legitimate problems as Mr. Adriatico mentioned in terms of real environmental waste in the property next to him, and create incentives for people to take care of their own property and direct the agencies to target their efforts to those real problems, but not go in and harass people who happen to disagree with them, who happen to have a different point of view, who in many cases are doing nothing more than trying to live their own lives and do so in a way that is productive for them, their families and their communities.

So I appreciate this example. Let me share with you one thing that happened to a farmer in my home district. His name is Bob Floyd, he had a wetland on his farm that was created because his neighbor accidentally destroyed his drainage tile. And in Indiana, the way you make sure that you can farm the land and it stays arable is you put in drainage tiles to make sure the water runs off. Those were accidentally destroyed, a mud puddle developed in land that had never been a wetland before, and the agencies came in and said you cannot farm your land any more.

He complained to me. I used it as an example of the problems we have in this area in the Clean Water Act. The Environmental Protection Agency came into our State, told the local agricultural officials at the Department of Agriculture that they needed to come in and shut down this farm. And he just recently received notice with a 60-day appeal that he could no longer use his farm, that a final determination had been made that it was a wetland.

Now we are looking into this and I am going to call Secretary Glickman and talk with him about it, because I do not think he knows what his agents were doing there. And we need to put a stop to that type of arrogant abuse of power. And if anything should happen to any of you as a result of testifying before this subcommittee, I want you to come back to me and I am going to personally look into it and make sure that that type of abuse does not occur among local officials.

It is an outrage when American citizens have to fear the Government, when they are going about their business trying to live orderly lives, trying to be productive members of the community and they live in fear of Government agents who should be there to help them, should be there to help all of us achieve these goals of safer work sites, a cleaner environment, healthier food system.

So we are going to work—Mr. Davis, you asked is this going to be sincere. I can tell you that all three of us are going to go back and continue to work on this. It is not something that is necessarily partisan in nature. As Mrs. Thurman can testify, we have developed a group of people on both sides of the aisle who think that there are too many regulations and we are not going to stop

after we have the hearings today, but your information will help us be able to build a case back in Washington.

Mr. DAVIS. You can understand why the cynicism is there.

Mr. MCINTOSH. Oh, yes.

Mr. DAVIS. And it is not just mine. But after hearing Mr. Adriatico's story, I feel pretty good. Can you imagine having to go through what he has gone through? And it is still there and it is still happening. And this could just be the beginning of Mr. Brock's story. I mean, these people can get really nasty.

I know of a case in Pinellas County where two brothers named Martin were legally—had a legal landfill for certain kinds of fill. And the Pinellas County got after them and they eventually issued a contract to a company to come in and clean it up and said that the company could sell enough fill dirt off of the land so that they could pay the \$2 million cost of hauling off all the stuff that the county had permitted for them to haul in there. Now these two brothers have spent time in jail, as Mr. Adriatico did. They are now out of jail, but not because they let them out, just because their terms expired. This is the same kind of thing. And there are other cases right here in this county if you need them, that really need to be addressed.

Mr. MCINTOSH. I appreciate that and I appreciate all of you coming here today.

Mrs. Thurman, do you have any questions?

Mrs. THURMAN. Let me just ask—Tommy, in the case that you are talking about right now, HRS was involved with this from a State perspective and you had talked about some alleged violations there, and you talked about—OK, the Labor Department, you are talking United States or Florida?

Mr. BROCK. U.S. Department of Labor under Wage and Hour, local district office right here in Tampa.

Mrs. THURMAN. And then the Code Enforcement from—

Mr. BROCK. Hillsborough County.

Mrs. THURMAN [continuing]. Hillsborough County.

Mr. BROCK. Hillsborough County is the one—undoubtedly he knew that he did not have the right to go back because he had no reason to go back and do anything himself. So in order to just retaliate on other properties that I own if anybody goes in—according to Code Enforcement, if anybody goes in and states we want you to check this out, they have to go out there. And this was the only thing they found, was just this minor zoning thing. The county has changed the way they do things in the last 5 years and these were set in the 1970's. So, that is the only thing they found. But as far as any housing violations that had anything to do with labor, none of it, none of this had. Now the very initial part of it, the reason I was involved with them, when they come in in January, it was, because I do have a labor camp. But that is why HRS was already doing the inspections.

Mr. DAVIS. Congresswoman Thurman, in my enclosure, there is an article here which is entitled "Federal troops attack Hillsborough County" and there is an outline of exactly what occurred during those raids at Mr. Brock's farm.

Mrs. THURMAN. OK.

Mr. Davis, just to answer a couple of your questions, so you will know, the minor use crop issue on pesticides, you know, has been—I guess we passed it actually out of the House last year, waiting for the Senate to act on it, and then again it has come before the House Agriculture Committee and has been passed out of there, along with the preregistration, and I think that you are going to find that both of those pieces of legislation are moving.

Mr. DAVIS. Good.

Mrs. THURMAN. So there are some things going on.

Let me just suggest something for you as a farmer and head of associations and different things, that as we go back to Washington, one of the pieces of legislation that we will be taking up this week is going to be the ag appropriations bill. What I would hope that you would do is maybe get to your particular Congressman or Congresswoman and let them know that you would like them not to try to do legislation on appropriations, to leave some of the issues that you mentioned in the farm bill to the farm bill, and not to be done on the appropriations bill, because there are going to be some big fights on the floor this week to look at some of those very programs that you mentioned in your testimony, and we on the Agriculture Committee would like to have that opportunity to work through those on the farm bill and not in the appropriations bill. Maybe we can——

Mr. DAVIS. Charlie Canady is on the Ag Committee and——

Mrs. THURMAN. So am I.

Mr. DAVIS. And I would assume that he sees this as you do, is that not correct?

Mrs. THURMAN. Absolutely. I think all of us do and the Ag Committee has actually been meeting the last couple of days or last week before we came home specifically. So it would be very helpful, because I think that we do not need to have us making substantial legislation changes in an appropriations bill, but more on the farm bill. So we would really like that cooperation if you can let people know.

Mr. DAVIS. OK.

Mrs. THURMAN. Because you have got some in this area, I am real concerned about some of the programs in particular that——

Mr. DAVIS. One in particular, but there is no use in me calling him.

Mrs. THURMAN. Well, you do not have to call me either.

Mr. MCINTOSH. I have to share with you that some of us freshmen are a little more aggressive and want to address it right away, so there may be some efforts to put some of these in the appropriations bill. Maybe Mrs. Thurman's point is well taken and what we should do—the way you deal with it in an appropriations bill is you say you cannot spend money in certain areas. Maybe what we should do is say you cannot spend money until this new farm bill and the solution has been solved. But I can tell you, we are going to look for every opportunity. We may disagree on vehicles.

Mrs. THURMAN. Well, but these are not regulations, and the further we get—we do not need to debate that here.

Mr. MCINTOSH. Yes.

Mrs. THURMAN. Mr. Adriatico, in fact at any time did you meet with any of your particular legislators, your State Senators or your

House members, since most of yours is coming from DEP and not the Federal level?

Mr. ADRIATICO. Yes, ma'am, I sure did. I met with, unfortunately, my newly elected county official. I sat down, explained everything to her, laid it out in detail. And she was of the opinion that her staff could do no wrong. And as Tommy had mentioned over here, it seemed like the more that I tried to uncover, the more that I tried to look for righteousness, the more they resented it, they being the bureaucrats in the county. As a matter of fact, one county official got so irate that the State decided it was not a wet-land, he wrote a very defamatory letter to the State DEP folks saying if you do not go after Adriatico, we cannot enforce any of our codes through our Code Enforcement Board on the local level, which I have a copy of also.

But I did try. I went to Mr. Starks on the State level, and prior to his election, I even helped him campaign. And once he was elected, unfortunately because of perhaps the constituents within the State level, perhaps there was nothing he could do, but I also have——

Mrs. THURMAN. So you never had an opportunity to sit down with DEP or any of them to talk about this or to figure out a way to undo it or——

Mr. ADRIATICO. Yes, ma'am, I did.

Mrs. THURMAN. You did?

Mr. ADRIATICO. Yes, ma'am, I did.

Mrs. THURMAN. OK, but they still continued on the line.

Mr. ADRIATICO. Yes, ma'am. I think they were using my case as an example to be made of, which they have done.

Mrs. THURMAN. OK.

Mr. MCINTOSH. What has happened to the waste material that—is it still there?

Mr. ADRIATICO. This waste material that you are referring to consists of palmetto trees, stumps and tons of grass scrapings, so it is really standard brush and material that is produced by our environment anyway. And a majority of it has been removed by a neighbor of mine. I was forced, because I was facing these deadlines for foreclosing on my property, a majority of it has been removed by a neighbor of mine who has stepped in, he is a developer. I had to reach an agreement with him, I had to sell my property. And part of the agreement was he would take care of the problems if I sold him the property.

Mr. MCINTOSH. Is it now being developed?

Mr. ADRIATICO. No. I am sure that is—he is going through whatever they have to do to get approved. So yes, I am sorry.

Mr. MCINTOSH. Mr. Scarborough.

Mr. SCARBOROUGH. Again, Mr. Adriatico, I am familiar with this type of story because again, Ocey Mills and his son spent 2 years in jail for this. You know, I talked about the dollars and the hours that regulation has cost this country. That does not even put a human factor on it, a human face on what it has cost you personally. I thought 6 months in Congress was bad for the family, I can imagine what 9 months in jail would do. Of course, some Congressmen actually see both sides of that, Congress and jail, but we will not get into that.

Let me ask you this, what official did you speak with that told you it was OK to take the action that you took on your property, and when did you get that verification that you had the go-ahead to make the changes?

Mr. ADRIATICO. I spoke to a Ms. Debbie Lee, she was with Environmental Services in Seminole County. Ms. Debbie Lee, after I had complained on numerous occasions about my abutting land-owners, told me that it was OK to fill my property to bring my property to the level of my abutting neighbors so that I could solve the flooding problem. I asked her if I could have something in writing and she said it would not be possible. And everybody asked me why did you not get it in writing and every business owner/farmer that I talk and share this with, they see a lot of humor in this. You never get an elected official or people on staff to put anything in writing.

Mr. SCARBOROUGH. Right. And when was that approximately that you got that verification? I do not need a specific date.

Mr. ADRIATICO. I do not—I have a chronology, it is in my truck, it is not right in front of me.

Mr. SCARBOROUGH. Did she testify against you subsequently or did she come forward and admit that she had given you the go-ahead?

Mr. ADRIATICO. She had told the county officials, county commissioners as well as other staff members that she never said it and for whatever reason, my attorney, when we were—when I was fighting for my life on criminal charges, on felony charges, never even brought her to the stand.

Mr. SCARBOROUGH. I will tell you what, it is difficult—it sounds really easy, hey get it in writing.

Mr. ADRIATICO. It sounds easy, does it not?

Mr. SCARBOROUGH. But it certainly is not.

Let me ask you this, after you had gotten into it and started, you talked about the judges were replaced and your second one was Judge Eaton, is that his name?

Mr. ADRIATICO. Yes, sir.

Mr. SCARBOROUGH. Has anybody taken any civil action against you or your family?

Mr. ADRIATICO. Yes, sir, I currently have fines on me over a million dollars that are being acted upon by Seminole County in the form of foreclosure action. Right now, thankfully, the county commissioners had held everything in abeyance on these fines pending my good neighbor's action in cleaning up—they call it clean up—by removing some of this material.

Mr. SCARBOROUGH. Right, OK. The reason I asked is because it is a horrible story, but the story goes on and on. I know again in my district with Mr. Mills, the Government is now coming forward with additional charges and we will just see what happens there.

Mr. ADRIATICO. Sir, I was also told if I pursued any action against the county or the State people—and I was told this by several attorneys, top attorneys in the field of environmentalism, that I would be spending the rest of my life—I have already lost my family, I have lost my freedom, any fortunes that the good Lord has provided for me—but the rest of my life would be fighting with the Federal people.

Mr. SCARBOROUGH. Well, I will tell you what, we will do whatever we can to help you out. I want to speak with you after the hearing and get you in touch with Mr. Mills and some others that have been through this, and see what we can do in Congress to take positive action for you.

I would like to just briefly speak to your concerns, Mr. Davis, about whether this Congress is willing to make a difference or not and tell you a few things that we have passed through the House and ask you whether it is something that you would be generally supportive of.

We passed a regulatory moratorium through the House to freeze new regulations. Right now we are looking at, I think it is John Mica actually who is pushing the bill to sunset regulations every 7 years, so you actually have to look at the regulations every 7 years to see if they make sense. And finally, the one I like so much is the cost/benefit analysis requirement where you have—and I have said this before, but you have 24-year-old bureaucrats that have never held a job a day in their life—of course, I am a 32-year-old statesman as I point out to people—but never held a job a day in their life, never had to make payroll, never had to put up with what businessmen and businesswomen have to put up with. And they come onto your property and tell you basically how to run it, and do not care whether it puts you out of business or not. And that is not demagoguery, I am telling you a lot of these people could not care less whether you ever worked another day in your life or not. And they come onto your property and tell you what to do with your property.

Without the Federal Government taking a step back and saying wait a second, what are we trying to achieve, and then how much is this going to cost in terms of money, in terms of time, in terms of productivity—how much is it going to cost the community.

So I am a big supporter of this cost/benefit analysis approach and was curious if those steps that we have taken in the first 6 or 7 months are steps that you would consider to be positive.

Mr. DAVIS. Those are positive steps; however, when you have 130,000 people out there protecting a \$430 billion bureaucracy and their salaries are paid from that money, I have found that at all levels of Government—this \$430 billion you are talking about is just Federal, and you can see from these two instances right here, we are attacked by all levels of Government, not just the Federal Government. It leaves us very little time to run our businesses.

And so yes, they will be beneficial, but we have got to do something to change the entire philosophy of doing things. Congress has been working on this for quite a long time now, but Mr. Adriatico has been working on it for 9 years and Mr. Mills has been working on it for 7 or 8 years, and they are getting nowhere. And I know that what they are telling is the truth because I have constituents in the Farm Bureau here in Hillsborough County who are going through lesser things, but certainly the same kind of thing. And I know exactly what Mr. Adriatico is talking about in that you cannot get anything in writing because we have those kind of people in our Hillsborough County Planning and Management Department. I try to get them to give me a commitment where I am trying to help a farmer out, and the head of that department tells me

something and I tell the farmer then yes, he can go ahead and do something. And then all of a sudden, they come down on him. And the fellow says oh, you misunderstood what I told you. I did not misunderstand what that gentleman said a bit, but he found that his job might be in jeopardy if this practice were allowed to go ahead on this farm, and so then all they have to do is just deny they said it. You cannot get anything in writing from those people. Because then they know they cannot lie to you or lie their way out of it. So this is a fact, and it exists.

The Labor Department is a perfect example of that. We had their absolute assurance that they would get back in touch with me, Mr. Traczewski and Ms. Echavesta, they would get back in touch with me and we would work out some solutions on the problem of the invasion of Hillsborough County. Nobody has called me since then. No, I have not tried to call them, there is no point in my trying to call them. No. 1, they keep their telephones all tied up here in Hillsborough County and you cannot get through to them. I have to call Washington and ask them to fax something back to tell them to call me. That is the only way I can get in touch with the local district office. They tell me the telephones are always busy and I say I will bet you if I went down there and sat, there would not be anybody on the phones. They just do not want to talk to us. They are Federal.

So what happens if they do not do anything today? Does the Labor Department go broke? No. It goes on tomorrow. If they do not get it done today, they get it done tomorrow. That is the problem with Government, they have no quotas to meet, they have no clock to punch. They do not have to do anything except hassle people like Mr. Brock and Adriatico.

Mr. SCARBOROUGH. Well, I agree with you. We do need to move forward with the reform and just in closing, to touch briefly on what you said, Mr. Brock, I think the biggest frustration that I have found, not only from farmers but from businessmen and businesswomen, property developers, homeowners—the biggest frustration they have is the fact that there are so many different agencies, so many layers of agencies and so many different levels. I have had a lot of people tell me, hey, I do not want to destroy the environment. I want to work in coordination with the environment, I want to help the environment, but I have 10 or 15 different layers of bureaucracy that I have to peel my way through, and it is just insanity. If I get through nine layers, the tenth can come and deep six me, stop my project, kill my project and delay it another 90 days or however long they may want to delay it.

So we have really got to—in our approach to environmental protection, we have to figure out a way to sanely protect the environment without destroying the people that live in that environment.

Mr. BROCK. Absolutely, and on your statement about regulations getting so complicated; a fine example, when you get—the local Code Enforcement knows how bad it is for an individual to get things done. I spent 3 half days already in Hillsborough County trying to get some of this worked out myself. I do not have a lot of money. Wage and Hour has already fined me \$2,500, but they were good guys and cut it down to \$800 just coming in on the first day, never come back, never seen anything. OK, I paid that. Now

it is going to cost me \$2,500 more because I had to go and hire—this is what the local county people advised me to do to get through their paperwork, said we advise you to hire a company that does this. Of course, they did not have no list, which is what they are supposed not to do. So I went and found a company here in Tampa that does this. Yeah, it is going to cost me some money, but I figured I had already spent 3 half days and I am not getting anything accomplished, except four \$12 parking tickets and a bunch of aggravation.

So if this is not bad enough—I mean when Government agencies are advising individual citizens, that he does not have access to get the job done, he has got to go hire a company—and guess where these company, these people used to work, they used to work for zoning and building. It creates jobs, but it hurts the little guy like me that does not have the money. But, I had no choice. I want to get it corrected because I do not want nothing out there that is putting me back in jeopardy for these people to come back on me.

And I was real questionable about doing this—Karen can tell you, I was real questionable about doing this because me and my family do not need nothing like what he has been through. I mean this is terrible.

Mr. SCARBOROUGH. Right. I do not think any of us do.

Mr. BROCK. Seems like I am just getting the tip of that right now, and I do not want any more of it.

Mr. SCARBOROUGH. Well, we talk about \$800 billion, that sounds like so much money that it costs the economy. You look at the 3 half days that you wasted in town here, how much productivity your business lost. Add on top of that the \$2,500, add on top of that everything you have been through already, add on top of that everything that you are going to go through. You can see how this begins to add up across the country. It is no way to run a Government.

Mr. BROCK. It does—exactly. And the 25 farms that they fined, initially the fines were somewhere around \$90,000, but they were the good guys and they cut it back to about 40. Well you take—these are small farms, these are small individual growers. And John and them, the head of the district, they are used to the billions like you are talking about, they did not think that was much money. We tried to explain, hey, you know \$1,000 is a lot to a small businessman.

Mr. SCARBOROUGH. Sure.

Mr. BROCK. And one more point. I had a lot of people. The reason you cannot get a lot of people at these hearings is because of fear. They want to sign off and get them off their back, because there is fear. I will tell you, I have talked to a lot of businesses—not just mine, but in Plant City. There is a guy that had a gas station there, he spent over \$40,000—this is an individual—changing out tanks, hauling dirt and everything—still was not right. They came back and they wanted him to spend another \$40,000. So, he is out of business. Local tractor place, been in business—they sold tractors to my dad in the 1950's. They are out of business. Why? Because the family that is running it now could not afford \$100,000 for a tank to wash down their tractors. The point with that is where does that wash down that comes off that tractor, where does

it go? I mean, nobody knew exactly where they were carrying it. Those kinds of things—\$100,000 for a small business—I mean, they quit. So, we do not have a tractor dealership in Plant City that carries that line of tractors.

Mr. DAVIS. Is that Davis-Carter?

Mr. BROCK. Davis-Carter.

Mr. SCARBOROUGH. I will tell you—David, I promise I will not talk at all on the next panel but if you get me wound up, I cannot stop—but they are such striking stories that show what this has done to this country.

In Pensacola, for 55 years we have had something called Stone Super Service, an appliance center. Tom Stone, great guy, worked in the community hard, had devoted his entire life to the community and his business, building his family business up, and Wal-Mart came into town and of course we know the end of that story, his appliance went out but he was going to sell the property and get into something else. Well, it ended up that a gas tank had been buried there 40 years ago before they moved onto the property. The rules changed and he had—the guy could have gone bankrupt 6 months ago, it would have been the easy thing to do. He refused to do it, he said I am going to pay off my creditors, I do not care what it takes. This caused a tremendous amount of strain in the family, just the years and years of putting up with what he had to put up with—caused strain in the family.

The final blow was—he finally figured out a way to get out of debt, the final blow was the EPA came to him and said he could not sell his business unless he spent \$200,000 to clean up this tank that was put in 40 years ago. He and his wife got into a fight going over the books and she left, and he went in the back room and hung himself.

And of course, for us, we say my gosh, who in the world would do something like that. It is easy to say until you have been in that man's shoes.

Mr. BROCK. Right.

Mr. SCARBOROUGH. Just absolute tragedies. There is a human face that goes along with these numbers and these regulations and that is the message that we need to get out across the country.

And I thank all of you for coming to testify.

Mr. MCINTOSH. Thank you all.

Let me ask one real quick thing, because we are running late. There are two ideas that I had heard about—and probably other good ones too—to try to change the incentives in the agencies, and really just tell me in real short—yes, good idea or maybe no, it would not work, based on your experiences. The first was to require them to go out and give notice first before they come in with a fine. The second is some system where you create incentives for the Government employee in their paycheck where if they get good reports back, they get a bonus; if they get a lot of complaints, then they get paid less. Do you think either of those systems would have helped in your situations and would be a good idea for us to explore?

Mr. BROCK. I think the incentive needs to be on—it needs to be addressed on what is he particularly looking for. Like in a labor camp situation, it needs to be addressed—the Federal law says pro-

tection of health and safety. You know, and they need to be pinpointed on what—sewer systems and all the garbage laying around the houses is what is considered I think health and safety a lot more so than just, you know, a torn screen or something like that. But if you give the guy an incentive, who is going to judge when he comes back with all this paperwork. In other words, they use the five-page deal. Is that going to be his incentive to get more money, to go out and make sure he fills this thing out? Do you see what I am getting at?

Mr. MCINTOSH. No, my thought was have input from the customer essentially.

Mr. BROCK. OK, yeah, good.

Mr. MCINTOSH. Was he helpful to me in cleaning up the—

Mr. BROCK. He would have to meet with the customer and get some kind of recommendation from him—good or bad or whatever and have maybe something we could meet. See, I never met this guy that supposedly came out and done all this. I have never seen him, I do not even know what he looks like.

If that is what you are trying to say, yeah, I would agree with that. What we are talking about is a forward meeting coming in and then a followup meeting going out—yeah.

Mr. DAVIS. I think the notice, they would probably figure out a way to overcome it. It certainly is better than we would have now, but according to Ms. Maria Echavesta, who is the head of the Division of Wage and Hour, they do not have the right to come on our property without our permission anyhow. But they do not pay any attention to that. And we do not know that, so we do not tell them the words that she told us we could tell them, that if we do not want them there at that time, we can tell them that we will have our attorney contact them and we will arrange for a time that is convenient to us for them to come and inspect. But that is not what the inspectors say when they get there and, you know, we do not go out studying those regulations, we are out trying to raise strawberries or trees.

The incentive thing, I think, would pretty soon get out of hand. Take that money and create a review commission that every time anyone is cited for any of these things, that it is automatically reviewed by these commissions at Government expense. Now when you do that, then you put the monkey on the Government's back to establish the fact that they have done the right thing.

Certainly, there probably are cases where a farmer inadvertently does screw up a wetland, honestly and truly, and maybe something should be done about it. Mr. Adriatico's case, I am certain, just from the few facts I have heard, is not one of these cases. But there has to be somewhere that the Government is right—I have never found one, but there has to be. [Laughter.]

And so let us have a review commission. Right now, you cannot get to an administrative review process. On all of these 25 citations written in Hillsborough County, it would cost you far more to hire an attorney—you cannot go through the process without an attorney—and it would cost you far more to hire an attorney than it would to go ahead and pay it. So our farmers—the highest one that I know of, of the \$57,000 was \$11,000 and these are things like a loose screw in a step, a torn screen.

Mr. MCINTOSH. Thank you.

Any real quick comments on that, Mr. Adriatico, from your experience? You shared the idea that the advanced notice probably would not have helped?

Mr. ADRIATICO. I agree. There just is no accountability of Government officials, and as this gentleman with the Farm Bureau had mentioned, they will find a way in which to beat the system. The only thing that I can see is when there is an incentive to bring in more money at the productive citizen's expense.

Mr. MCINTOSH. So get rid of the incentives to do harm in the regulatory agency.

Mr. ADRIATICO. Exactly.

Mr. MCINTOSH. OK. Thank you all. We have gone longer than we had planned, but I appreciate your testimony tremendously.

Our next panel is comprised of Mr. David Boozer, executive director of the Florida Tropical Fish Farms Association; Mr. Charles Weeder, chairman and CEO of Homes of Merit, Inc., and Mr. Bruce—~~is it Congleton~~—

Mr. CONGLETON. Very good.

Mr. MCINTOSH [continuing]. President and CEO of the Florida Food Industry Association.

Welcome here. If I could ask each of you to go ahead and take your seats—actually first rise with me.

[Witnesses sworn.]

Mr. MCINTOSH. Thank you. Let the record show that each of the witnesses answered in the affirmative.

We are running a little bit behind and I do not want to deprive you or some of the other people here today of a chance to participate in the public forum—if you are comfortable with it, and I could ask each of you to summarize your testimony in the 5 minutes or so, we will put the full thing into the record and can get into the question and answer session.

Mr. Boozer, would you go first?

STATEMENTS OF DAVID BOOZER, EXECUTIVE DIRECTOR, FLORIDA TROPICAL FISH FARMS ASSOCIATION; CHARLES E. WEEDER, CHAIRMAN AND CEO, HOMES OF MERIT, INC.; AND BRUCE CONGLETON, PRESIDENT AND CEO, FLORIDA FOOD INDUSTRY ASSOCIATION

Mr. BOOZER. Sure. I am David Boozer of Florida Tropical Fish Farm Association. I am not a fish farmer and I had asked several of my members if they would mind coming and testifying before this committee today to give a first-hand account of the problems that they face. And many of them were fearful of retribution by the Federal agencies and bureaucracies. In fact, one of them was strongly advised by his attorney not to participate in this panel. So here I am.

And let me go on to say my favorite agency is the Internal Revenue Service. They do a great job. [Laughter.]

Mr. MCINTOSH. OK, good.

Mr. BOOZER. Tropical fish farming is the largest aquaculture commodity item produced in Florida. There are approximately 200 full-time tropical fish farmers in the State farming on some 6,000 to 8,000 acres. The value of the tropical fish sales by Florida farm-

ers is approximately \$47 million annually. That is the whole industry, so we are really a small industry. Live tropical fish are the single largest air cargo item shipped from Florida. Between 15,000 and 20,000 boxes of tropical fish are shipped weekly out of the State.

Recently one fish farmer had the opportunity of having his farm inspected by OSHA. Although some of the citations may have merit for improved employee safety on the job site, it is really hard to rationalize that he was fined for not having audible beepers on his golf cart. The fines accrued to this farm and the cost to comply with the OSHA regulations exceeded \$25,000, to this one farm alone.

Aquaculture is generally defined as the farming and production of an animal or plant in a water environment. This is an accurate description of our industry, but we feel that the Food and Drug Administration should take into account the difference between aquarium fish and food fish when regulating therapeutic compounds used by our industry.

Tropical fish get quite stressed the more they are handled and when they come under stress, they are susceptible to disease and health breakdowns. Our industry uses antibiotics and other therapeutic compounds to help them stay healthy. Under the provisions of the Federal Food, Drug and Cosmetic Act, there is virtually no distinction on the approval process for drugs for use on humans or intended for consumption, or nonfood animals. About the only time a tropical fish is consumed is when some college students have a fraternity party and swallow a few goldfish. [Laughter.]

This puts us, the nonfood industry, in a dilemma as the approval process is exhaustive and extensive. Each drug must be approved to be disease and species specific. Our farmers produce something over 600 species of fish alone and that is quite a bit of testing and research to go through each species to get a drug approval.

We do not have the tools of health management and production available and there are hundreds of species technically requiring this expensive approval. It could cost billions of dollars to get conventional approvals. The approvals far exceed the value of our whole industry.

The same constraints that exist with the FDA also occur with the Environmental Protection Agency in getting pesticides and herbicides approved for aquaculture use. Limited use labels expire every 9 years and must be renewed based on tests on the pesticide's impact on humans, animals, and the environment. Often, chemical manufacturers will not seek renewals of their registration for certain uses when sales do not justify the cost. In many cases, a product may not be available for use by fish farmers, not because of safety concerns, but because in most cases it is too expensive for manufacturers to obtain EPA approval.

It was only 2 years ago that after several years of letter writing, phone calls and trips to Washington that we were able to persuade the U.S. Fish and Wildlife Service to change their rules to allow our fish farmers to export their domestically produced livestock without being required to have a Fish and Wildlife Service agent physically inspect the fish shipment prior to shipment. But still today, fish caught in the wild are subject to the same inspections.

Even if one fish in a shipment comes from the wild, the entire shipment is considered covered by the Convention on International Trade in Endangered Species which is implemented by the Fish and Wildlife Service.

Florida produced tropical fish account for approximately 35 to 40 percent of the freshwater aquarium fish sold in the United States. Our competition comes mainly from imports from countries in South America and Southeast Asia. In most respects the governments in foreign countries are doing everything they can to encourage growth for the aquaculture industries in their countries. Where here, it seems that we are just burdened with Federal, State, and local regulations that provide a real barrier to aquaculture and the loss of business opportunity. Federal regulations often are not developed to address an existing problem, but are rather developed to address a potential problem. One fish farmer has said regulations are like "getting pecked to death by ducks," each bite may not hurt much, but taken together, the bites are very painful.

I have tried to highlight just a few of the regulatory problems our industry must deal with. There are many more regulations that constrain fish farming, such as wetland rules, restrictive pesticide requirements and extensive recordkeeping requirements by numerous agencies.

Thank you.

[The prepared statement of Mr. Boozer follows:]

PREPARED STATEMENT OF DAVID BOOZER, EXECUTIVE DIRECTOR, FLORIDA TROPICAL FISH FARMS ASSOCIATION

My name is David Boozer and I'm here to speak on behalf of the Florida Tropical Fish Farm Industry. Tropical fish farming is the largest aquaculture commodity item produced in Florida. There are approximately 200 full time tropical fish farmers in the state. They produce aquarium fish using some 6,000-8,000 acres. The value of tropical fish sales by Florida farmers is approximately \$47 million annually. Live tropical fish are the single largest air cargo item shipped from Florida. Between 15,000-20,000 boxes of tropical fish are shipped by air from Florida weekly.

We appreciate this opportunity to discuss with you some of our concerns regarding regulations that effect tropical fish farms.

Recently one fish farmer had the opportunity of having his farm inspected by OSHA. Although some of the citations may have merit for improved employee safety on the job site, its hard to rationalize being fined for not having an audible beeper on golf carts when they are put in reverse. The fines accrued to this farm and the cost to comply with the OSHA regulations exceeded \$25,000.

Aquaculture is generally defined as the farming and production of an animal or plant in a water environment. This is an accurate description of our industry but we feel that the Food & Drug Administration (FDA) should take into account the difference between aquarium fish and food fish when regulating therapeutic compounds used by our industry. Under the provisions of the Federal Food, Drug, and Cosmetic Act, there is virtually no distinction on the approval process for drugs for use on humans or animals intended for human consumption, and non food animals (such as tropical aquarium fish). This now puts small, non food specialty industries in a dilemma as the approval process is exhaustive and expensive. Each drug must be approved, be pathogen and species specific; each of these approvals can cost multi-millions of dollars. The tropical fish business is in an impossible place. We may not have the tools of health management and production available, and there are hundreds of species technically requiring this expensive approval. It could cost billions of dollars to get conventional approvals. The approvals far exceed the value of our whole industry.

The same constraints that exist with FDA also occur with the Environmental Protection Agency (EPA) in getting pesticides and herbicides approved for aquaculture use. Limited use labels expire every nine years, and must be renewed based on tests of the pesticides impacts on humans, animals, and the environment. Often chemical manufacturers will not seek renewals of their registration for certain uses when

sales do not justify the cost of the tests. In many cases a product may not be available for use by fish farmers—not because of safety concerns, but because in most cases it is too expensive for manufacturers to obtain EPA approval.

It was only two years ago, that after several years of letter writing, phone calls and trips to Washington that we were able to persuade the US Fish and Wildlife Service (FWS) to change there rules to allow our fish farmers to export their domestically produced livestock without being required to have a Fish and Wildlife Service Agent physically inspect the fish prior to shipment, but still today fish caught in the wild are subject to inspections. Even if one fish in a shipment is caught in the wild, the entire shipment is considered covered by the Convention on International Trade in Endangered Species (CITES) which is implemented by the Fish and Wildlife Service. Under CITES, wild fish can only be processed through ports with an FWS agent authorized to approve the shipment. In many cases the Tampa airport is the closest airport to a fish farm with an authorized agent, but many fish farms would prefer to ship the fish out of the Orlando airport because it has more international flights, services and lower costs. However, the Orlando airport has no FWS agent to process the CITES paperwork. Therefore, in order to ship wild fish from Orlando, fish farm staff must drive the fish to Tampa, process the paperwork through the Tampa FWS office, and then have the fish delivered to Orlando where they can be shipped throughout the world.

Florida produced tropical fish account for approximately 35–40% of the fresh water aquarium fish sold in the US. Our competition comes mainly from imports from countries in South America and Southeast Asia. In most respects the governments in foreign countries are doing everything they can to encourage growth in their fish farming industries, while here in the US we feel that Federal, State, and Local regulations are real barriers to aquaculture and cause the loss of business opportunity. Federal regulations often are not developed to address a existing problem, but rather are developed to address a potential problem. One fish farmer, has said regulations are like "getting pecked to death by ducks" each bite may not hurt much, but taken together the bites are very painful.

I have tried to highlight just a few of the regulatory problems our industry must deal with on a daily basis. There are many more regulations that constrain fish farming—such as wet land rules; restrictive pesticide requirements; and extensive record keeping requirements by numerous agencies.

Our industry feels that their is a need for better coordination with Congress and more agency input into the drafting of legislation which could affect regulatory programs or require new implementing regulations, so that, ideally, such legislation does not have a disproportionate negative impact upon small businesses; the need for better coordination among federal agencies and departments in the formulation of regulations; the need for more small business involvement in the regulatory development process, particularly during the analytic, risk assessment and preliminary drafting stages.

I thank you for inviting us to be a part of regulatory reform hearing here in Tampa. I do hope that your committee is successful in its desire to make life simpler for all small business owners.

Mr. MCINTOSH. Thank you, Mr. Boozer. I will have to remember the duck theory of regulation. In the past administration, we heard about the duck test for taxes, where if it looks like a duck, walks like a duck, it is probably a duck. Unfortunately, they ignored that and raised taxes anyway. But thank you, I appreciate that analogy.

Mr. Weeder, welcome. It is good to see you again and thank you for coming and testifying.

Mr. WEEDER. Mr. Chairman, committee members and staff members and guests, my name is Charles Weeder. I am chairman of the board and chief executive officer of Homes of Merit in Bartow, FL. I am also a member of the board of directors of the Association for Regulatory Reform, commonly referred to as ARR, in Washington, which is a national trade association representing the views and interests of mostly small- to medium-sized producers of manufactured housing.

I founded Homes of Merit in 1973. From modest beginnings, the company has grown to the point where it today operates five manufacturing plants here in the State of Florida, and we are the largest

producer of manufactured homes here in Florida. Homes of Merit's market base, however, is throughout the southeast United States.

At the onset, I would like to thank the chairman for convening this hearing, and for inviting me to appear here today, because this hearing marks a potential turning point for the manufactured housing industry and the consumers that it serves. As you are aware, the design and construction of manufactured housing is regulated by the Department of Housing and Urban Development, or HUD, under a Federal statute enacted in 1974. This statute, the National Manufactured Housing Construction and Safety Standards Act is very unique, in that it expressly requires standards promulgated under its authority to be reasonable and requires the Secretary of HUD, in adopting these standards, to consider their probable impact on the cost of manufactured housing to the public.

This emphasis on cost-effectiveness was written into the Act because its sponsors specifically recognized that manufactured housing is affordable housing that offers the best chance of attaining the American dream of home-ownership to a large cross-section of lower and middle-income Americans.

Unfortunately, this type of cost-conscious approach has historically been given short shrift by HUD, and that is why today's hearing is so important—it marks the first time that a committee or subcommittee of Congress has been willing to listen to just how excessive and/or inappropriate regulation is harming an industry that is largely based on affordability.

The specific HUD regulation that I would like to address is of particular concern to those of us who produce or sell manufactured housing in Florida and the southeast. It is a classic case of a regulation that is neither fair, reasonable, nor cost-effective.

When HUD adopted the building code for manufactured housing in 1976, it included a performance standard for wind resistance. And for 16 years this regulation remained unchanged. Then, in 1992, Hurricane Andrew struck south Florida, and overnight the original standard was deemed inadequate. Although ARR, Homes of Merit and others in the industry argued that it was unfair to judge the effectiveness of the original standards on the basis of a storm packing 140 mile an hour sustained winds and gust of up to 200 miles an hour—speeds in excess of any building code—HUD nevertheless began proceedings to adopt a new standard.

Unfortunately, of the various model codes and standards that HUD considered—including the Southern Building Code, which applies to all site-built and modular housing in the southeast—HUD chose the most expensive and onerous wind standard in existence today.

This standard, known as ASCE 7-88, has not been adopted by any other building code jurisdiction, anywhere in the country, for any other type of housing. Furthermore, notwithstanding its expense, it provides protection only up to 110 miles an hour—meaning that it would not have made a difference in Hurricane Andrew and will not provide additional protection to manufactured homeowners in the most severe storms.

Yet, the cost of this regulation to the industry and its consumers will be severe. Our statistics indicate that the retail cost of a manufactured home built to comply with the new wind standards,

ranges from \$2,600 to \$4,750 higher than homes built under the original standard. This translates into a 10 to 15.9-percent increase in the retail cost of an average manufactured home.

The subcommittee, I am sure, can imagine what a price increase of this magnitude would do to the site-built housing. But with manufactured housing, the effect is even worse, because it is sold primarily to lower and middle-income persons, including—particularly those in the southeast—many on fixed incomes.

As a result, sales here in the State have dropped considerably. If the numbers hold true for the rest of this year, we are going to be off probably 12 percent. I know my company based in Bartow, which had catered basically to the retirement industry, is off about 20 percent for the year. It is just a regulation that is out of touch with reality, and which is neither fair, reasonable, nor cost effective.

We hope and trust that the subcommittee will take heed of this problem and take some steps to ensure that Americans are not denied access to affordable, nonsubsidized home ownership because of such misguided and excessive regulations.

Thank you.

[The prepared statement of Mr. Weeder follows:]

PREPARED STATEMENT OF CHARLES E. WEEDER, CHAIRMAN AND CEO, HOMES OF MERIT, INC.

Mr. Chairman, Mr. Peterson, Staff Members and Guests, my name is Charles E. Weeder. I am the Chairman of the Board and Chief Executive Officer of Homes of Merit, Inc., based in Bartow, Florida. I am also a member of the Board of Directors of the Association for Regulatory Reform ("ARR"), a national trade association representing the views and interests of mostly small to medium-sized producers of manufactured housing.

I founded Homes of Merit in 1973. From modest beginnings, the company has grown to the point where it today operates five manufacturing plants, and is the largest producer of manufactured housing in the state of Florida. Homes of Merit's market base, though, covers not only Florida, but all of the South and Southeastern United States.

At the outset, I would like to thank the Chairman for convening this hearing, and for inviting me to appear here today. This hearing marks a potential turning point for the manufactured housing industry and the consumers that it serves. As you are aware, the design and construction of manufactured housing is regulated by the Department of Housing and Urban Development ("HUD") under a federal statute enacted in 1974. This statute, the National Manufactured Housing Construction and Safety Standards Act is somewhat unique, in that it expressly requires standards promulgated under its authority to be "reasonable" and requires the Secretary of HUD, in adopting these standards, to consider their probable impact on the cost of manufactured housing to the public. This emphasis on cost-effectiveness was written into the Act because its sponsors specifically recognized that manufactured housing is affordable housing that offers the best chance of attaining the American dream of home-ownership to a large cross-section of lower and middle-income Americans.

Unfortunately, this type of cost-conscious approach has historically been given short shrift by HUD, and that is why today's hearing is so important—it marks the first time that a committee or subcommittee of Congress has been willing to listen to just how excessive and/or inappropriate regulation is harming an industry that is largely based on affordability.

The specific HUD regulation that I would like to address today is of particular concern to those of us who produce or sell manufactured housing in Florida and the southeast. It presents a classic case of a regulation that is neither fair, reasonable, nor cost-effective.

When HUD adopted the federal building code for manufactured housing in 1976, it included a performance standard for wind resistance. For 16 years this regulation remained unchanged. Then, in 1992, Hurricane Andrew struck south Florida, and overnight the original standard was deemed inadequate. Although ARR, Homes of Merit and others in the industry argued that it was unfair to judge the effectiveness

of the original wind standard on the basis of a storm packing 140 m.p.h. sustained winds and 200 m.p.h. gusts—speeds in excess of any building code—HUD nevertheless began proceedings to adopt a new standard.

Unfortunately, of the various model codes and standards that HUD considered—including the Southern Building Code, which applies to all site-built and modular housing in the southeast—HUD chose the most expensive and onerous wind standard in existence today.

This standard, known as ASCE 7-88, has not been adopted by any other building code jurisdiction, anywhere in the country, for any other type of housing. Furthermore, notwithstanding its expense, it provides protection only up to 110 m.p.h.—meaning that it would not have made a difference in Hurricane Andrew and will not provide additional protection to manufactured homeowners in the most severe storms.

Yet, the cost of this regulation to the industry and its consumers will be severe. Our statistics indicate that the retail cost of a manufactured home built to comply with the new wind standard, ranges from \$2,600 to \$4,750 higher than homes built under the original standard. This translates into a 10 to 15.9% increase in the retail cost of an average manufactured home.

The Subcommittee, I am sure, can imagine what a price increase of this magnitude would do to the site-built housing industry. But with manufactured housing, the effect is even worse, because it is sold primarily to lower and middle-income persons, including many—particularly in the southeast—on fixed incomes.

As a result, sales of manufactured housing in Florida have declined sharply, while the broader industry is experiencing a healthy growth in sales. Specifically, overall Florida sales will decline some 12% in 1995 if current trends continue, and at Homes of Merit, we have experienced a production decline of some 20% over the first half of 1995. Meanwhile, the rest of the industry has reported 16% growth in 1995 sales over the same period in 1994.

The only conclusion that can and should be drawn from this information is that HUD's new wind regulation is severely affecting the affordability of manufactured housing in Florida and other coastal areas. Of course, wind safety and safety in general is of great concern to the industry. The reputation of our product is every bit as important to us as its affordability. But HUD's new wind rule is extreme, as reflected by the simple fact that it has not been adopted anywhere else. While the rule would not have prevented the type of damage done by Hurricane Andrew, it is preventing thousands of Americans from being able to purchase a home of their own. It is regulation that is out of touch with reality, and which is neither fair, reasonable nor cost effective.

We hope and trust that the Subcommittee will take heed of this problem and will take steps to ensure that Americans are not denied access to affordable, nonsubsidized homeownership because of such misguided or excessive regulations.

Mr. MCINTOSH. Thank you, Mr. Weeder, I appreciate that and would like to get back to you with some questions during the question period.

Mr. Congleton.

Mr. CONGLETON. Thank you, Mr. Chairman, welcome. I am Bruce Congleton, president and CEO of Florida Food Industries Association located in Tallahassee, FL. I am pleased to be here today to present this testimony on behalf of the members of Florida Food Industries Association and bring to your attention several concerns our industry has with Government programs today.

FFIA is the State's association representing a cross section of retail grocery stores and chains, wholesale grocers, convenience stores and grocery suppliers. Altogether, we represent approximately 4,000 retail food outlets in the State. In addition, we support the efforts of the National Grocers Association, the Food Marketing Institute, and the National Association of Convenience Stores, all of whom lobby heavily each of you on Capitol Hill. The members of Florida Food Industries Association are extremely concerned with the continued proliferation of Federal rules and new laws which increase their financial burdens. As you mentioned in your opening statement, 10 percent of the price of a bag of grocer-

ies reflects the cost of regulations. The grocery business has a very low rate of return, an average of about 1 to 2 percent. So whenever anyone says that a new rule or law can be passed on or absorbed by the taxpayer, it becomes increasingly more difficult for the grocery industry. Our consumers are very cost conscious. This was reflected recently in Florida with the repeal of the advanced disposal fee on various grocery containers. Loud objections were made by the consumers over the 2 cents per container fee the ADF required on certain items which were not at high recyclable rates. As a matter of fact, the average ADF paid by a grocery shopper rarely exceeded 20 cents. But the perception of added costs fueled the controversy. And I use this ADF as an example of how critical it is for us to keep our costs low to the consumers.

Now let me turn to some of the issues in Washington. First, let me take a moment to congratulate Congress on the resolution of one major issue this year of extreme concern to us. I'm speaking of the overhaul of the Perishable Agricultural Commodities Act, PACA. This antiquated law is a prime example of how much reform is needed at the national level. It was instituted in 1930, originally to protect produce growers against no-pay or slow-pay problems. But with the creation of a statutory trust to resolve this problem, most of the cases were solved without using PACA, although retail grocers continued to carry the burden to fund it. Under your compromise, PACA will soon be phased out.

One of our favorite areas is OSHA. One of the more promising pieces of legislation proposed this year is Representative Ballenger's bill to reform the Occupational Safety and Health Administration. This agency epitomizes the image of a massive Government agency gone amok, with thousands of rules and regulations beyond the comprehension of the hard-working grocer and even the best minds of industry. Even the present administration concedes OSHA needs huge changes.

The grocery industry places a high priority on employee safety and strives to create and maintain a safe and healthy workplace. But Federal mandates and the increasing and excessive regulatory OSHA penalties are adding a heavy economic and administrative burden on the food industry. OSHA regulation should be based on sound science and consultation with business to achieve meaningful risk assessment and cost/benefit analysis.

Now while you are trying to untangle the OSHA puzzle, OSHA apparently is undaunted as it continues forward with an ergonomics proposal which would affect every one of our people.

In addition, another OSHA proposal is in the works concerning the establishment of a whole new set of rules for nighttime safety of retail establishments which are open 24 hours a day. We have many convenience stores and some grocery chain stores which fall in this category. Florida has been in the forefront of legislation to create safer nighttime working conditions. Now, apparently OSHA wants to add to the profusion of rules by adding its own little rule. We are opposed to this effort.

One issue of great concern to the grocery industry is the operation of paper balers which are used to crush cardboard in our recycling efforts. Years ago, such machines were considered very dangerous to operate. However, today's balers represent little resem-

blance to those of the 1950's. ANSI standards were developed in 1982 and revised in 1990 to require an interlocking device to prevent the operation of the baler while the door is open for loading. Many require a key to operate. Presently, the Department of Labor is enforcing a rule which makes it illegal for minors to operate such machines. Your fellow Congressman Tom Ewing of Illinois has House Resolution 1114, which will allow those under 18 to utilize these balers. It makes little sense to prohibit teenagers from throwing cardboard into nonoperating and locked balers, when they can legitimately drive automobiles, and operate farm and lawn equipment. So we would support efforts for this legislation.

One final issue is USDA meat inspection. This past year USDA began an aggressive program of meat inspection in retail grocery stores for the presence of *E. coli* virus in ground beef. While we agree that *E. coli* is a significant public health problem, we object to the method by which USDA has gone about searching for it.

The problem originates in packing houses and filters down to the retail level. We have had at least one of our members suffer almost a catastrophic loss of his business due to the publicity surrounding an USDA inspection of his store and the discovery of a sample—one sample—of *E. coli* in his ground beef. We understand the USDA regulation is on hold due to your appropriations process and that negotiated rulemaking has been ordered. All of our national associations are also working on this problem.

Mr. Chairman, I want to thank you and your committee for the opportunity to come before you and bring these matters to your attention. I hope you will enjoy your visit to our State.

[The prepared statement of Mr. Congleton follows:]

PREPARED STATEMENT OF BRUCE CONGLETON, PRESIDENT AND CEO, FLORIDA FOOD
INDUSTRY ASSOCIATION

I am Bruce A. Congleton, President/CEO of the Florida Food Industries Association located in Tallahassee, Florida. I am pleased to be here today to present this testimony on behalf of the members of Florida Food Industries Association to bring to your attention several concerns our industry has with government programs today.

Florida Food Industries Association (FFIA) is the state's association representing a cross section of retail grocery stores and chains, wholesale grocers, convenience stores and grocery suppliers. Altogether, we represent approximately 4,000 retail food outlets in the state. The association is the primary spokesman in the state capitol for those issues directly affecting the industry. In addition, we support the efforts of the National Grocers Association, the Food Marketing Institute, and the National Association of Convenience Stores. Much of what I will talk about today probably has been told to you by these organizations.

The members of Florida Food Industries Association are extremely concerned with the continued proliferation of federal rules and new laws which increase their financial burdens. As you may know, the grocery business has a very low rate of return, an average of about one to two percent. So whenever anyone says that a new rule or law can be passed on or absorbed by the taxpayer, it becomes increasingly more difficult for the grocery industry. Our consumers are very cost conscious. This was reflected recently in Florida with the repeal of the advanced disposal fee (ADF) on various grocery containers. Loud objections were made by the consumers over the 2 cents per container fee the ADF required on certain items which were not at high recyclable rates. As a matter of fact, the average ADF paid by a grocery shopper rarely exceeded 20 cents. But the perception of added costs fueled the controversy. I use the ADF as an example of how critical it is for us to keep our costs low to the consumers.

Now onto some issues you are facing in Washington.

PERISHABLE AGRICULTURAL COMMODITIES ACT

First, let me take a moment to congratulate Congress on the resolution of one major issue this year of extreme concern to the grocery business. I'm speaking, of course, of the overhaul of the Perishable Agricultural Commodities Act (PACA). This antiquated law is a prime example of how much reform is needed at the national level. Instituted in 1930, it was originally meant to protect produce growers against no-pay or slow pay problems. But with the creation of a statutory trust to solve this problem, most of the cases were solved without using PACA, although retail grocers continued to pay the \$400 annual fee to fund PACA. Under your compromise, PACA will soon be phased out and another unnecessary law will be removed from the books.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

One of the more promising pieces of legislation proposed this year is Representative Ballenger's bill to reform the Occupational Safety & Health Administration (OSHA). This agency epitomizes the image of a massive government agency gone amok, with thousands of rules and regulations beyond the comprehension of the hard-working grocer and even the best minds of industry. Even the present administration concedes OSHA needs "huge" changes. Representative Ballenger's bill would limit OSHA powers, create a standards board with authority to promulgate new regulations or revoke existing ones, prohibit fines for paperwork violations that have no relation to health and safety, restrict the use of case policy and overhaul the appeals process.

The grocery industry places a high priority on employee safety and strives to create and maintain a safe and healthy workplace. But federal mandates and the increasing and excessive regulatory OSHA penalties are adding a heavy economic and administrative burden on the food industry. OSHA regulation should be based on sound science and consultation with business to achieve meaningful risk assessment and cost benefit analysis. We would support private sector initiatives and labor management team efforts to improve safety in the workplace.

While Congress tries to untangle the OSHA puzzle, however, OSHA apparently is undaunted as it continues forward with its ergonomics proposal which would affect almost every workplace in the food industry. We would oppose these rules as does the National Grocers Association, Food Marketing Institute and the National Association of Convenience Stores.

Another OSHA proposal in the works concerns the establishment of a whole new set of rules for nighttime safety of retail establishments which are open 24 hours a day. We have many convenience stores and some grocery chain stores which fall under this category. Florida has been in the forefront of legislation to create a safer nighttime working condition. Now, OSHA apparently wants to add to the profusion of rules it already has by adding nighttime safety to its list. We, along with FMI, are opposed to this effort.

PAPER BALERS

One issue of great concern to the grocery industry is the operation of paper balers which are used to crush cardboard in our recycling efforts. Years ago, such machines were considered very dangerous to operate. However, today's balers bear little resemblance to those of the 1950s. American National Standards Institute (ANSI) standards were developed in 1982 and revised in 1990 to require an interlocking device to prevent the operation of the baler while the door is open for loading. Many require a key to operate. Presently, the Department of Labor is enforcing a rule which makes it illegal for minors to operate such machines or to even put cardboard into a baler when it is not operating.

Legislation has been introduced by Representative Tom Ewing of Illinois which will amend the Fair Labor Standards Act to authorize minors who are under 18 years of age to load materials into paper balers and compactors which meet appropriate ANSI design safety standards. We strongly support this bill, H.R. 1114.

It makes little sense to prohibit teenagers from throwing cardboard into non-operating and locked balers, when they can legitimately drive automobiles, and operate farm and lawn equipment and other functioning tools at home and in other jobs.

In addition, indiscriminate enforcement of this regulation by the department has resulted in citations and penalties totaling as much as \$250,000. This action has discouraged grocers from hiring teenagers under 18 to work in their stores. H.R. 1114 would correct this situation and provide more opportunities for teenager employment.

ELECTRONIC BENEFITS TRANSFER—FOOD STAMPS

Those of us in the grocery business were pleased with Congress' action relating to food stamps. While we agree there is significant fraud in the system in certain areas of the country, we do not believe block grants is the solution to the problem. The solution lies in the development of an efficient system of electronic benefits transfer (EBT).

Florida is currently participating with eight other Southern states in a pilot program to develop EBT. Beginning next year, three areas of the state (Escambia, Duval and Dade counties) will test this program which replaces the traditional stamps with an electronic card. Our industry has been working with state and federal officials in the development of this system so it can operate smoothly and effectively and provide those who need assistance with food products.

However, we understand members of the House Agricultural Committee are concerned with the bidding process for the electronic providers of EBT. We are in support of our state agency and the Southern Alliance of States in their efforts to utilize the IEI system of procuring the providers and would hope you would pass this along to your colleagues on that committee.

USDA MEAT INSPECTIONS

This past year the USDA began an aggressive program of meat inspection of retail grocery stores for the presence of the E. coli 0157:H7 virus in ground beef. While we agree that E. coli is a significant public health problem, we would object to the method by which the USDA has gone about searching for it.

The problem originates in the packing houses and filters down to the retail level. We have had at least one of our members suffer almost a catastrophic loss of his business due to the publicity surrounding an USDA inspection of his store and the discovery of a sample of E. coli in some ground beef.

We understand the USDA regulation concerning inspections is on hold due to your appropriations process and that negotiated rule-making has been ordered.

All of our national associations are working on this problem to arrive at a sensible and workable solution with USDA on this very important problem and we support their efforts.

Mr. Chairman, I want to thank you and your committee for the opportunity to come before you and bring these matters to your attention. I hope you will enjoy your visit to our state and will come again.

Mr. MCINTOSH. Thank you very much. I appreciate all of your testimony. The staff is warning me that we definitely have to wrap up by 12, so I am going to keep my questions down to a minimum. They were suggesting no questions.

Actually just let me tell you that Mr. Ewing's bill is one that is being looked at as a Corrections bill, to take care of this baler regulation, because it is outdated by the new developments in technology.

And I guess both Mr. Boozer and Mr. Weeder, let me urge you to work with some local members here. I think we have gotten some ideas today where we could have a corrections idea on the wind standard, make sure that is not tougher than what other types of housing is in fact subjected to, and does it in fact get you any benefits in the case of a hurricane. And perhaps FDA would adopt a different approach for the tropical fish and work out—both of those sound like areas where there is a lot of fertile ground for us to have a correction being made there.

I will not ask any questions of the panel. I appreciate that and we may get back to you with some specifics as we look at that going forward in those regulations.

Mrs. Thurman.

Mrs. THURMAN. Mr. Weeder, are you covered—I am trying to remember—by the Southern Building Codes at all?

Mr. WEEDER. Ma'am, the Southern Building Code is the code that covers site-built houses and modular homes. Now we do build

some manufactured homes that go under the HUD code. We also build modular homes in our factories, same production line, same procedures, but they are built to the Southern Building Code.

Mrs. THURMAN. The reason I am asking that question is because I know that the wind standards for regular homes was also changed, if I understand correctly, after Hurricane Andrew, as well. I mean the whole wind issue. So is the one that you are dealing with stronger than what the State building codes are?

Mr. WEEDE. Yes, ma'am. Basically that is what the industry and all of us were trying to tell HUD, was hey, we do not mind being built to the same—or judged to the same code that all other single-family housing is subjected to. But why are you putting this onerous thing on just manufactured housing, which is supposed to be affordable housing, and making it much more expensive.

Just for an example, the same standards in the Southern Building Code would apply if the building were 60 feet in the air, that we have to meet for a single-story manufactured home on the ground. And that is—I mean they have just got everything out of proportion. They just went crazy. Nobody in the whole country, no building codes, nobody uses this 7-88 standards. Why they imposed it on us is the thing that we cannot understand, but they did.

Mrs. THURMAN. Mr. Boozer, in your State government, you have what is called an intergovernmental task force group that works with your aquaculture, so that you bring all of the different agencies and departments together who would do the permitting for any State requirements, correct?

Mr. BOOZER. Correct.

Mrs. THURMAN. Has that worked well for you?

Mr. BOOZER. It is certainly an avenue of communication between the State regulators and our industry.

The problems that I addressed in my presentation are coming from the Federal mandates.

Mrs. THURMAN. I understand that, but what I am trying to figure out is if there was an avenue available similar to what is done at the State level.

Mr. BOOZER. That is certainly a possibility. There is a National Aquaculture Association.

Mrs. THURMAN. But does it bring your agencies in together that might have regulation over you, whether it be U.S. Wildlife, Department of Ag, any of those? Because I know that when aquaculture first started in the State, one of the big issues was that all of those different agencies, you would have to go through a constant burden with them, each one of them directly. This way you brought I guess like a panel together of each one of those agencies represented to do any of your regulation, so that you could sit down with them at one time and figure out what needed to be done.

Mr. BOOZER. Well, like I said, the interagency council meets quarterly and sometimes just on an annual basis just to look at regulations that each of the various State departments have and its impact on aquaculture.

Mrs. THURMAN. In the trade part of this, I am real concerned, because we are having so many issues with trade anyway, whether it be fruits and vegetables or—from the standpoint of Florida. Are the regulations in some way coming from our foreign countries that

you are shipping to, that are asking us to do any of these kinds of regulations to make sure that nothing is exported that they believe will be harmful if let go into their environment?

Mr. BOOZER. The European community is now undergoing a review of their standards and criteria for importation of aquatic species. And the ornamental fish part of it is really just a small, small portion of imports. Their concern again also is in the food fish area, various species that could be introduced as a non-native species to their environment.

Mrs. THURMAN. Similarly to the problems that Florida has had with hyacinth or melaleuca or any of those, that concern that you would bring in a foreign—OK.

Bruce, let me tell you, as I suggested to the last panel, your issue of meat inspection—again, so you all will know, this week there is a possibility that there will be some legislation run on the appropriations bill, on the ag appropriations bill, that is going to try to deal with meat inspection. And once again we are asking folks, because there is another piece of legislation that is being worked on I guess for several years now, that Mr. Stenholm and Mr. Roberts have been working on—Pat Roberts being the Chairman of the Ag Committee. And so there is a concern that there is going to—and because of the E. coli issue, that there will be a strong sense to go ahead and do that in appropriations. So we would hope that, you know, people will kind of give us an opportunity to do again that through the farm bill and not on the floor.

So there are a couple of issues. I keep working on this, maybe we will get these votes here yet.

Mr. MCINTOSH. Actually, I think we worked out something with the chairman and the ranking minority member where we would not put a solution into the appropriations bill, but we would put on hold the regulations coming out of the Department until the committee had a chance to work on it.

Mr. Peterson, who is the ranking member on the subcommittee, has also worked on that one and felt strongly that the committee's work was a lot better than the Department's and that we needed to let that go forward.

Mrs. THURMAN. Thank you.

Mr. MCINTOSH. Joe, did you have any questions?

Mr. SCARBOROUGH. No, I just wanted to thank them and also wanted to thank you, Mr. Chairman, for this hearing. I think it has been extremely helpful to me.

Mr. MCINTOSH. Well, now we will move really to my favorite part—with all deference to the panels—where citizens get the chance to be heard by a congressional committee, the open mic. Thank you all for coming and participating. Your information will become part of our record.

Let me ask people who would like to participate in the open mic segment to really just line up before this microphone right here. If you could State your name and any association you are here with. Any written materials you would like for us to include can also be put into the record, and then just go forward and make your presentation.

STATEMENTS OF DAVID HURLEY, PRESIDENT, LANDMARK ENGINEERING AND SURVEYING CORPORATION, TAMPA, FL; RUSS SLOANE, PRESIDENT, ST. PETERSBURG AREA CHAMBER OF COMMERCE, FORMER PRESIDENT, MUNCIE, IN CHAMBER; JOHN VOGEL, VOGEL FARMS; BILL TURNEY, FLORIDA MANUFACTURED HOUSING ASSOCIATION; JOHN DOWLESS, EXECUTIVE DIRECTOR, CHRISTIAN COALITION OF FLORIDA; AND JOAN KELLEY, STATE COMMITTEEWOMAN FOR PASCO COUNTY

Mr. HURLEY. My name is David Hurley, I am the president of Landmark Engineering and Surveying Corporation here in Tampa. I have a small business that I have been operating for a little over 11 years.

One of the regulations that the Government does, or one of the thresholds for the regulations, many of them kick in when you get to 50 employees. They say well that probably does not hurt. I grew my corporation to 46 employees in 2 years and I jealously guard going over 50 because I do not feel that I can afford what it costs during the next short-range growth. I think if I could make an instant jump to 85 or 90, I might be able to handle it. But I will guarantee you that there is a lot of growth and a lot of jobs that have died on the vine, not just from me but from others like me that say "I cannot afford to have the Government regulators hitting me when I just go past one more employee."

It is cheaper for me to turn down work and make money on what I have to do than to take on nonprofitable work and put up with more Government regulators.

Thank you.

Mr. MCINTOSH. Thank you very much, Mr. Hurley. I want to note I had a chance to meet with Mr. Hurley a little bit earlier and he is originally from my district in Indiana, so that Hoosiers have made a contribution to the effort down here in Florida.

Yes?

Mr. SLOANE. Russ Sloane, president of St. Petersburg Area Chamber of Commerce; formerly president of the Muncie, IN Chamber, David, glad you are down here.

Mr. MCINTOSH. Another Hoosier contribution.

Mr. SLOANE. Representing 2,100 members in the fourth largest city in Florida, a couple of general things and then some specifics. A lot of comment about the lack of consistency of OSHA inspectors, a lot of unhappiness about the automatic seemingly adversarial relationship, the feeling that fines and violations are more important than truly saving lives or preventing injuries.

And some specifics, I talked to one large construction firm who said the interim standard on lead is unbelievably complex and that any level of exposure is viewed as maximum, regardless of what that level is. And they gave an example they were sheetrocking with I guess a product that contained lead in an x-ray facility and this guy said the greater danger is if they dropped it on somebody's foot, but the lead exposure was absolutely minimal and yet it was tremendously complex to deal with that.

A small contractor talked about the 6-foot ladder rule, and you may already have heard about all of the apparatus needed. He said it is just ridiculous.

Then we have a rather large manufacturer here who said that the EPA rules and interpretations—he said if they are mixing a 200-pound batch of a particular material, if it contains five pounds of powder that is regulated, that they treat the batch—for regulation purposes, they treat the whole 200-pound batch as 200 pounds, as opposed to the five pounds of regulated, the powder that goes into it. And he said it is absolutely ridiculous.

Many people have said that between the ADA and the family leave area, that they need a bevy of lawyers. Somebody talked earlier about the difficulty of getting in on the telephone. They said that is right, all the Federal agencies ought to have fax numbers so that they can fax them, because they sure cannot get to them on the telephone.

When you talk about putting anything in writing, I remember a constituent in Muncie, IN, got a letter from the EPA saying we cannot agree or disagree with your action. That was on a voluntary tank removal, and so that is what putting it in writing stood for.

The Farm Bureau gentleman talked about how they cannot pass their increases on, but I want to remind you now with international competition, a lot of our business cannot do that. And when you are looking at businesses that have to deal with OSHA, EPA and ADA, it is a monster. I do not—visiting with probably 1,000 small business people around the table in the past decade, I cannot get over how small business can stay in business and not break some rule or law or regulation inadvertently every single day.

Thank you.

Mr. MCINTOSH. Thank you very much, Russ, appreciate you coming and glad to see you settled in down here.

Yes?

Mr. VOGEL. Good morning. I am John Vogel, Vogel Farms; also on Hillsborough County Farm Bureau Board.

NAFTA has completely put Vogel Farms out of business. Out of 47 tomato growers in the Ruskin area, I believe there are now about three or four left. I think there are around 52 Government regulatory agencies—that is county, State and Federal—that are working against us. All the new laws are just—you cannot do anything any more, and every time you have a fine come up, they believe they can just fine you and that you have plenty of money to go with the lawyers. All the farmers in this area are broke, and tomato growers. It is really sad to see Ruskin go down the way it is right now. The packing houses now are owned by large corporations, there are no more small growers in this area.

Thank you very much.

Mr. MCINTOSH. Thank you, I appreciate that.

Mr. SCARBOROUGH. Could I ask a quick question on that, on NAFTA?

Mr. VOGEL. Yes, sir.

Mr. SCARBOROUGH. There was such a torrid debate before NAFTA was passed about the impact it would have on agriculture. Could you just tell me briefly about the negative impact it has had?

Mr. VOGEL. OK, in this area, I would say basically from Interstate 4 south, it used to be the salad bowl of the United States for the winter crops. This is strawberries included, all your vegetables,

fresh fruit crops. Since Del Monte and Asgrow now is owned by a Mexican co-op, they have taken over, they are shipping—as you know, earlier this year, in the spring, they were flooding the market. Enough for 1 week was being put over the border from Mexico in 1 day for tomatoes. This completely killed the tomato market. They flooded it. They were selling tomatoes for \$1 a box here in Ruskin, that is a 25-pound box—\$1 a box.

And this last fall, we were raising cantaloupe, trying to find something else to grow. We talked with one of the head men from Del Monte, they were bringing in from Guatemala, cantaloupe, to the Port Manatee area down here for less than what we could grow them for, and dumping—putting them on the market. For \$2.75 day labor in Guatemala, \$10 a day average in Mexico, there is no competition there.

Plus our spray program, we are not able to use any spray materials any more that is sufficient. They use anything they want to, they have 10 years to comply with the United States, what we have to use. It is very unfair—I mean very unfair on this. They are taking away our bromide. Bromide—there is more bromide put in the air in 1 day through the ocean's winds than what we use in a year in the United States.

So this is what we are having trouble with. Thank you.

Mrs. THURMAN. Joe, if I can, let me just respond so he will know what is going on at the Federal level just a little bit.

One, on the methyl bromide, and this is the second time it has been brought up, we are trying to get that extended, but we are also looking at trying to put some research dollars in the farm bill so that we can find an alternative in fact if there is one.

The whole Delaney clause issue on the zero tolerance level is being looked at and potentially could be changed. I think even the administration has been very high on trying to do something in that area.

In the tomato area, one of the problems that we are having—and I did not vote for NAFTA, so—because I knew potentially the competition that we would have with, particularly from Florida's vegetables and fruits, but there is a packaging issue that we are trying to get done. It is called an 8-E, which specifically will make Mexico package the same way we are asked to, so that you have the same sizes, the same pounds, same everything in one, which has created a big problem for you all, as I understand it. Trying to look at the dumping laws in particular, to try to look at that.

And another is to try to get your inspectors with USDA and also with your border patrols who do as they come over, to get their paperwork to match, so that we know, instead of 3 months later, how much product has actually been brought into this country, which has got a big issue to do with the dumping.

So just so you will know—and we are also trying to work with CECO who is going to look at some marketing promotion dollars, specifically to try to expand trade into countries that we do not have right now. So we are trying to look, and there will be a meeting sometime within the next month or so with the MPP folks to try to work on that.

So I have a big feeling for you all, I think it is awful what has happened out there, but it is done and we are trying to find some avenues to help you work through some of these issues.

Mr. VOGEL. And also, now we cannot sell our land at the price it used to be at, because we have the lowlands, the high lands act, swift mud zones——

Mrs. THURMAN. Sure.

Mr. VOGEL. So it is a never ending fight. My son is 22 years old, he is in bed right now with ulcers. He is a fourth generation farmer. Thank you.

Mrs. THURMAN. I understand.

Mr. MCINTOSH. Thank you, appreciate that, Mr. Vogel.

Mr. TURNEY. Good morning, Mr. Chairman, members. My name is Bill Turney with the Florida Manufactured Housing Association. I am a staff member of the association, which Mr. Weeder is a member of. We represent about 1,200 members.

I would like to echo the importance of his testimony because it directly affects the capability of the affordable house to people. Normally when you pass regulations such as this, it does not affect the people that can afford it, it affects the people that cannot afford it. And there is a big lump down at that end that cannot.

But to go back on my own experience real briefly, after I finished my tour of duty at the service and University of Florida also, Mr. Scarborough, at 24, I started my first business. I stayed self-employed for 30 years almost, until 1989. In 1960, I spent 98 percent of my time satisfying my retail customer and selling my product. When I finally laid down my pencil and started to work—which drove me to do this—I spent 98 percent of the time trying to figure out how to qualify Government regulations, local, State, Federal, whatever—it is mind-boggling.

So I spent that time and in 1990, I went to work for the association. Currently today, I spend probably 50 percent of my time dealing with these types of things you just heard. I probably carry 20 or 30 files at all times. I made two calls en route this morning on two problems that I had not heard of prior to this time, but I received them on my voice mail—both on regulatory issues causing people grief.

You want to hear some real stories? I have them.

Thank you very much for the day.

Mr. MCINTOSH. Thank you. We may call on you for those. Thank you.

Yes, sir?

Mr. DOWLESS. My name is John Dowless, I am the executive director for Christian Coalition of Florida, I am here representing 108,000 members and activists. And I want to say thanks for coming outside the beltway to hear from Americans.

But my question is two-part and it deals with the adversarial type role. It seems that our people are fearing our Government and that is, is there a possibility—and this may already be being done—but before fining the businesses and the farmers for violations, that maybe a notice could be presented first at least to allow for correction time. No. 2, is there a possible way for those that are accused, who are at a later date found to be innocent of the said charges—is there any way that they could be reimbursed, as a self-

correcting mechanism from the very agency that is pursuing them, of attorneys' fees and any other costs associated with their case?

Mr. MCINTOSH. Thank you, Mr. Dowless.

Let me mention, I do know in the OSHA area there is a bill that Representative Cas Ballenger is putting in that would require notice first and an opportunity to correct any safety violations before a fine was levied. And I think the supporters of that bill—I have signed on as a cosponsor—feel that that is one way to help change the mindset and focus in the areas.

Now if there is something life-threatening or serious problem, then you have got to come in and put a stop to it right away. But on a lot of these routine things, the plug in an electrical socket is not quite at the right height on the wall, an OSHA inspector wants them to move it, have them come in and give people notice first and an opportunity to correct that before you fine them. Those are the types of things we will do.

In terms of the other idea, I have not heard any proposals like that, but I think it might make sense. I do know in the takings area in property rights, that we are trying to refocus the agencies' incentives that way, that if a regulation takes your private property and you can no longer use it, then the Government should pay compensation for it. And that way, society balances the cost with the benefits of taking that private property. And so maybe that same theory could be applied over in the enforcement area as well.

Did you want to make some comment?

Mr. SCARBOROUGH. Yes, sir, Mr. Chairman. I have to tell you, I had a meeting on another Government Reform and Oversight Subcommittee with Vice President Gore. There were about 10 members, 5 Republicans, 5 Democrats and the 5 Republicans sat down and, of course, Vice President Gore is talking about reinventing Government and trying to figure out a way to make Government regulations less onerous, and he talked to the Republicans first, and all five of us told all the horror stories about OSHA, just jumped up and down on OSHA. And then he turned to the Democrats and I just sort of got a feeling that he was turning to the Democrats, OK, guys, bail me out—and gals, bail me out here, and explain that OSHA is actually in the business to protect workers and everything. Well, the five Democrats that spoke, there were three of the five from extremely liberal districts—not quite as reasonable as the three of us up here—started talking about OSHA and they had the same horror stories. And Vice President Gore I think got the message, and he said to us, well I will tell you what, I think we do need to move beyond the point where the Federal Government is in the role of constantly punishing its own citizens, its own American people.

And as many members pointed out, we have a real problem when you have people working for OSHA who are actually promoted based on the amount of fines that they levy on American citizens. And that is something the Vice President recognized and said himself. If instead of taking that approach, we could tell these workers for OSHA and other agencies, hey, this is a field that you are responsible for, we are going to see how many injuries occur in these certain fields or under your jurisdiction. If injuries go down in your



particular jurisdiction, then that is what you are going to be promoted for, instead of just levying fines indiscriminately.

And I think it is very positive that we have Republicans and Democrats, conservatives and liberals, working together finally after all these years to relieve the regulatory burden. And I think we need to move in the direction that you were suggesting, where it is not an adversarial, sort of "gotcha" process.

Mr. MCINTOSH. Thank you, Mr. Scarborough.

We do have time for one more citizen witness.

Ms. KELLEY. Thank you. Good morning to our Congressmen. I am Joan Kelley, State Committeewoman for Pasco County.

I sent you a report, Congressman McIntosh, in regard to the EPA report on the Clean Drinking Water as well as the Clean Air Act. I will proceed to read the letter that I wrote you, as I do want it to go into the Congressional Record.

The report is the information derived from the data contained in EPA Federal Reporting Data base, which is used to monitor compliance with the Safe Drinking Water Act. The violations of act's health standards discussed in this report fall into three main categories: Violation of the health standards, treatment requirements and water exceeding the lead level.

The Centers for Disease Control estimate that almost 1 million people are made sick by their drinking water each year. And approximately 1,000 of these people die. This is throughout the whole country, the United States throughout.

Although I concur with some of the initiatives to cut back on the massive over-regulation we have suffered over the years, it should not be at the expense of the American people. We Americans take pride in ourselves with clean air and clean water. If we do not adhere to our own laws, then we become one of the Third World countries with a high death rate and disease-ridden population. That will be the future of your grandchildren and mine.

I urge you to strengthen the Clean Air and Clean Water Act. We must protect the people of the United States. That is why we here in America have the freedom to put our desires to the vote. It is through this process that you, Congressman McIntosh, Karen Thurman and other legislators are elected to do the will of the people.

I sent you a report, Congressman McIntosh, stating the different utilities that are in violation here in the State of Florida. Since 1991, 1992, 1993, 1994, 1995, mostly all of the utilities in the Tampa Bay area in Pasco County and the Hernando and the Pinellas County area, have been in violation of the Clean Water Act, but yet our laws are not strong enough to make them adhere to what the Federal demand is for clean water.

I do not wish, on behalf of my people in Pasco County and elsewhere, to have the Congress make the laws to clean air and clean water less of importance, less of strength. This we cannot do. We really should try to protect the American people, at least we are entitled to breathe clean air and to drink clean water.

Now you have the report, Congressman, and I would love to send 500 of these to each one of you Congressmen—it is really 400 and something in Congress, whether it be Democrat or Republican, but we must make the ruling more strongly. The business people do

not adhere—you take a builder that comes down from the north and he is going to build houses—fine. He builds maybe 500–600 houses and then he puts in his water line. Truthfully, he is a builder, he is not a utility management, but he owns that pipe that went in that services all the people that buy his homes. Therefore, that is why he is not experienced in keeping the Federal acts on clean air and clean water, so therefore many, many times—I have it in this report how many times they have been in violation. So this is what I am asking.

Mr. MCINTOSH. I thank you and we will take a close look at that report.

Let me warn you—caution you I guess a little bit—on terms of looking at what a violation is. Some of those acts, and the ones I am most familiar with are the Clean Air Act, but the Safe Drinking Water Act also, companies have reported to me, misdirect some of the efforts, and in the Clean Air Act, for example, a lot of the violations occur on the permitting part of it. But that does not get you any benefits in cleaning the air, it is a paperwork requirement. And so what we are trying to do is say let us focus in on the regulatory requirements that do get you cleaner air, that get you safer drinking water and cleaner water in the rivers and lakes and the oceans, and make sure that those are effective.

So I look forward to looking at your report and seeing the types of violations. But the paperwork ones and some of the other violations that are cited do not really have anything to do with real hazards, but they are in the law and technically people are in violation of them and we need to separate out the difference between those two.

Mr. SCARBOROUGH. Mr. Chairman, if I could just briefly add—and I know we are out of time and have to leave for Orlando—if I could just simply add, I think it is a balancing act. I have a 7-year-old boy and a 4-year-old boy and the last thing I want them to do is drink polluted water or breathe polluted air. But it is truly a balancing act. We need to make sure that we are balancing the needs and interests.

And again, I thank you for holding this hearing. I think it has been very positive for us.

Mr. MCINTOSH. Thank you.

Ms. KELLEY. One more thing I would like to say, Congressman. And that is, when they are in violation and there is bad water to be had, they put it in the legal section and you need a magnifying glass to what it says as far as their utilities is concerned, and how much and what is a violation—you have to be a rocket scientist to keep up on them.

Thank you very much.

Mr. MCINTOSH. Thank you.

Mrs. Thurman, did you have—

Mrs. THURMAN. I would just like to—first of all, Joan, we appreciate you coming here from Pasco County, and I will tell you that there is not another county probably around that is more concerned, because of the pressures that are put on their water sources anyway. And we have been trying to help and deal with those issues.

Let me also just suggest for the business folks that are here that, you know, there was a White House Conference that was held for small businesses, to look at business regulation. There is a report being put together. I would ask actively for any of you to maybe participate with your—for those representatives that came from this area, or any place else in the State. I can certainly give you the name of the person that came up with me, to review those, possibly giving us any other recommendations and/or things that you might be in there that might not be as worthy of consideration, of other things. I think that those are very good.

And just because they keep talking about the administration and the 58,000 to 65,000, let me also suggest the one thing I have learned through this hearing is that this has not just happened in the last 2 years, these are things that have been ongoing in Government. It is not one now and in fact, I honestly believe that the Vice President has really tried to put forth a reinvention of Government and there have been some things that have actively taken place. One of the reasons it has gone from 58 to 65 is because we have been undoing some regulations as much as putting them together. So you have got to understand.

Mr. MCINTOSH. The paradox—yes, and I will concur with you there. The one thing I discovered when I was working in the competitiveness council is it takes a new regulation in Washington in order to get rid of an old one.

Mrs. THURMAN. That is right.

Mr. MCINTOSH. And so those numbers can be misleading.

Mrs. THURMAN. Thank you. I just wanted to clear that up, so we—

Mr. MCINTOSH. That is fair enough. Frankly, I think we could do a lot better to get it way down to 30–40,000 pages of necessary stuff.

Mrs. THURMAN. We appreciate everybody coming.

Mr. MCINTOSH. Thank you all for coming, I appreciate it.

Let me say thank you in particular to some of the staff who helped—David White, Karen Barnes and some of the other folks who are here. I appreciate the effort that they did in putting this together. We appreciate the hard work for some of the people here in the Tampa area—Andy and Ms. Jaeb for making the room here available to us. We will take this information back and distribute it to our colleagues and I appreciate all the help.

This subcommittee is adjourned, and we appreciate this effort.

[Whereupon, at 12:04 p.m., the subcommittee was adjourned.]



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